COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1503-01
Bill No.: SB 323
Subject: Economic Development; Enterprise Zones; Tax Credits; Taxation and Revenue - General
Type: Original
Date: March 12, 2013

Bill Summary: This proposal creates the Missouri Works Program and eliminates or modifies certain other economic development programs.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	$0 to (Unknown greater than $27,634,362)	$0 to (Unknown greater than $30,466,823)	$0 to (Unknown greater than $51,669,480)
Total Estimated Net Effect on General Revenue Fund	**$0 to (Unknown greater than $27,634,362)**	**$0 to (Unknown greater than $30,466,823)**	**$0 to (Unknown greater than $51,669,480)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration** defer to the Departments of Economic Development and Revenue for fiscal impact.

Officials at the **Office of Administration - Budget and Planning** assume this proposal creates the Missouri Works business incentive program, which sunsets four current business incentive programs and creates one new incentive program. The cap for the new Missouri Works program is $106 million in FY14, $111 million in FY15, and $116 million in FY15 and beyond. This proposal could therefore lower General and Total State Revenues by the amounts listed. There may also be an impact to 18e.

The legislation sunsets the following tax credit programs: Missouri Quality Jobs, Enhanced Enterprise Zone, Development, and Rebuilding Communities. The aggregate cap on tax credits for the programs being phased out under this proposal totals at least $118 million annually. The negative impact noted above could be offset by the amount the sunset programs have been utilized historically.

As with the existing Missouri Quality Jobs program, retained withholding benefits would not be subject to the annual tax credit cap under this proposal. This will have an unknown negative impact on General and Total State Revenues.

The new Missouri Works program may encourage other economic activity, but BAP does not have data to estimate induced revenues. The Department of Economic Development may have such an estimate.

Officials at the **Department of Economic Development** (**DED**) assume section 135.960 revises the Enhanced Enterprise Zone program to allow the majority vote of members of the governing authority to adopt an ordinance or resolution to designate an Enhanced Enterprise Zone. This removes DED from the authorization process of EEZs, which DED assumes will have an unknown positive impact.

Section 620.3000 creates the Missouri Works Program to be administered by DED's Division of Business and Community Services (BCS). The Missouri Works program would operate in a similar fashion to the current Missouri Quality Jobs program by providing performance-based benefits in the form of retained withholding taxes and tax credits to qualified companies that create new jobs. The proposal also authorizes the award of additional discretionary tax credits to

ASSUMPTION (continued)

qualified companies that create jobs and investment that provide a net fiscal benefit to the state, similar to the existing BUILD program. The Missouri Works proposal mandates a positive net fiscal benefit to the state for any award of discretionary tax credits and requires DED to report quarterly to the General Assembly the positive net fiscal benefit of each project awarded, which will ensure that discretion is exercised in accordance with this directive.

The Missouri Works Program proposal phases-out four current business incentive tax credit programs, which include: Missouri Quality Jobs (620.1875), Enhanced Enterprise Zone (135.950), Development Tax Credit (32.100), and the Rebuilding Communities Tax Credit (135.535). Projects previously offered benefits under these programs may continue to receive such benefits, but no new awards may be made under these programs.

The aggregate cap on tax credits for the programs being phased out under this proposal totals at least $118 million annually. The proposed Missouri Works program imposes a hard cap on tax credits that reaches $116 million when fully phased-in. However, recognizing the outstanding obligations under the current programs being phased out, the proposal reduces the annual statutory caps by the amount of the existing tax credit obligations under the current programs.

Fiscal Year	**Maximum Annual Tax Credit Cap**	**Obligated under Current Programs**	**Effective Annual Tax Credit Cap**
FY14	$106,000,000	$78,365,638	$27,634,362
FY15	$111,000,000	$80,533,177	$30,446,823
FY16	$116,000,000	$64,330,520	$51,669,480

The chart below reflects the statutory maximum annual statutory tax credit cap under the proposal and the annual caps of the four programs being phased out.

SUNSETS	
Quality Jobs (E)*	$80 M
Enhanced Enterprise Zone (D)*	$24 M
Development Tax Credit (D)	$6 M
Rebuilding Communities (E)	$8 M
Total Current Caps	$118 M

*E= Entitlement, *D = Discretionary

ASSUMPTION (continued)

Missouri Works
(Annual tax credit cap)
FY 14 = $106 M
FY 15 = $111 M
FY 16 = $116 M

It is unknown how many qualified companies would seek and be eligible for benefits under this program. With respect to the entitlement benefits under this proposal, DED estimates an unknown positive fiscal impact of greater than $100,000, because projects awarded such benefits are anticipated to provide an overall net fiscal benefit to the state, even if not every individual project would have a net fiscal benefit to the state. Similarly, DED estimates a positive fiscal impact of greater than $100,000 for any discretionary tax credits awarded under this proposal because the award of any such tax credits is restricted to projects having a net fiscal benefit to the state.

Officials at the **Department of Revenue** (**DOR**) assume this proposal would require them to make form changes and programming changes to various tax systems. These changes are estimated to cost $22,722 for 840 FTE hours.

DOR assumes the Personal Tax Division will need one Revenue Processing Technician I ($25,884) per 4,000 tax credits redeemed. The Corporate Tax Division will need one Revenue Processing Technician I ($25,884) per 4,000 tax credits redeemed and one Revenue Processing Technician I ($25,884) per 7,800 pieces of additional withholding correspondence processed. Withholding Division will need one Revenue Processing Technician I ($25,884) per 7,800 pieces of additional withholding correspondence processed.

Oversight assumes DOR is provided with core funding to handle a certain amount of computer programming activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

Oversight assumes DOR's Personal, Corporate and Withholding Tax Divisions could absorb the responsibilities of this tax credit with existing resources. Should DOR experience the number of additional tax credit redemptions to justify another FTE they could seek that FTE through the appropriation process.

ASSUMPTION (continued)

Officials at the **Department of Insurance, Financial Institutions and Professional Registration** assume an unknown reduction of premium tax revenues as a result of the establishment of the Missouri Works Program tax credit reform is possible. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through out the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year.

The department will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

According to the Tax Credit Analysis submitted by the Department of Economic Development regarding this program, the Development tax credit program had the following activity;

	FY 2010	FY 2011	FY 2012
Amount Issued	$2,713,000	$3,970,771	$3,624,811
Amount Redeemed	$1,589,618	$1,001,142	$3,856,648

According to the Tax Credit Analysis submitted by the Department of Economic Development regarding this program, the Rebuilding Communities tax credit program had the following activity;

	FY 2010	FY 2011	FY 2012
Amount Issued	$1,419,758	$1,444,107	$1,883,336
Amount Redeemed	$1,553,894	$1,277,135	$1,388,190

According to the Tax Credit Analysis submitted by the Department of Economic Development regarding this program, the Enhanced Enterprise Zone tax credit program had the following activity;

	FY 2010	FY 2011	FY 2012
Amount Issued	$5,068,487	$6,853,727	$6,525,256
Amount Redeemed	$2,916,392	$4,000,689	$7,324,093

ASSUMPTION (continued)

According to the Tax Credit Analysis submitted by the Department of Economic Development regarding this program, the Missouri Quality Jobs tax credit program had the following activity;

	FY 2010	FY 2011	FY 2012
Amount Issued	$14,863,017	$26,099,496	$37,749,051
Amount Redeemed	$14,238,179	$27,936,799	$35,431,828

Oversight assumes it is unclear how many companies will qualify for the withholding tax so Oversight will show in the fiscal note the cost to General Revenue as $0 to Unknown. Since the tax credits are capped each fiscal year and the number of unobligated credits is known, **Oversight** will show the loss of the tax credit revenue to General Revenue as $0 to the unobligated amount.

Oversight assumes the creation of this new program outlined in this proposal may have a positive impact on the state. However, Oversight considers this to be indirect impact of the proposal and will not reflect it in this fiscal note.

Officials at the **Department of Agriculture**, **Department of Higher Education**, **Department of Natural Resources**, **Joint Committee on Administrative Rules**, **Linn State Technical College**, **Missouri House of Representatives**, **Missouri Senate**, **Office of the Governor**, Office of State Treasurer each assume there is no fiscal impact to their organization from this proposal.

Officials at the **Metropolitan Community College** assume an unknown impact.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

FISCAL IMPACT - State Government	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
Revenue Reduction - withholding taxes	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Revenue Reduction - tax credits	$0 to ($27,634,362)	$0 to ($30,466,823)	$0 to ($51,669,480)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0 to (Unknown greater than $27,634,362)**	**$0 to (Unknown greater than $30,466,823)**	**$0 to (Unknown greater than $51,669,480)**

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

FISCAL IMPACT - Local Government	FY 2014 (10 Mo.)	FY 2015	FY 2016
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses could be impacted by the change in the tax credits.

FISCAL DESCRIPTION

This act modifies provisions relating to job creation.

MISSOURI WORKS PROGRAM = This act creates the Missouri Works Program. A qualifying company may retain a certain amount of withholding taxes for new jobs if one of the following three criteria are met: (1) ten or more new jobs are created with the average wage being at least 90% of the county average wage; (2) two or more new jobs are created in a rural area with the average wage being at least 90% of the county wage average and a $100,000 investment has been made in the last two years; or (3) two or more jobs are created in an enhanced enterprise zone with the average wage being at least 80% of the county wage average and a $100,000 investment has been made in the last two years.

In addition to the withholding taxes, a qualified company that creates ten or more new jobs with the average wage being at least 90% of the county average wage may also receive a tax credit up to nine percent of new payroll. No company will be eligible for a total amount of benefits under this program in excess of 12% of payroll. The amount of the tax credit shall not exceed the projected net fiscal benefit to the state or the amount needed to obtain the company's commitment to initiate the project. Criteria are established for the Department of Economic Development to determine the amount of the tax credit. Qualified companies must enter into an agreement with the Department to receive the tax credit, which shall include clawback provisions. No company will be eligible to retain withholding taxes or obtain a payroll tax credit if they have made certain decisions or performed certain tasks before their notice of intent is approved.

If there is a significant probability that a company may relocate to another state, the Department may authorize a company to retain up to 100% of its withholding taxes. The average wage of the retained jobs must be at least 90% of the county average wage, at least 50 jobs must be retained for 10 years, and the company must make an investment of at least 50% of the total benefits it will receive. The amount of benefits awarded to the company cannot exceed the projected net fiscal benefit to the state. The aggregate amount of benefits available to all companies under these provisions is capped at $6 million per fiscal year. Qualified companies must enter into an agreement with the Department to receive the tax credit, which shall include clawback provisions.

The Department of Economic Development is required to responds to request for benefits within 5 days and notice of intent within 30 days. Failure to respond to a notice of intent will result in an approval of the notice of intent.

JH:LR:OD

ASSUMPTION (continued)

If a qualified company participates in a job training program authorizing retention of withholding tax, the company will not retain withholding tax under this program but will be issued a refundable tax credit for the amount of the benefit they would be allowed under this program. Companies receiving benefits under the program must filed an annual report with the Department. Companies employing individuals that are not legally allowed to work in the United States will be ineligible for benefits under the program. Companies that become delinquent on their taxes will have their benefits authorized under this program reduced by the delinquent amount.

The total amount of tax credits that may be authorized under the program is limited to $106 million for FY 2014, $111 million for FY 2015, and $116 million for any fiscal year thereafter. Tax credits issued under the program are transferable but may not be carried forward or back.

After August 28, 2013, no new benefits shall be authorized under the Neighborhood Assistance Tax Credit Program, the Rebuilding Communities Tax Credit Program, Enhanced Enterprise Zone Tax Credit Program, and the Missouri Quality Jobs Program. Companies receiving benefits under this act are barred from benefit under the Manufacturing Jobs Act for the same jobs.

The Missouri Works Program will sunset on August 28, 2019.

ENHANCED ENTERPRISE ZONES TAX CREDIT PROGRAM = Despite the prohibition of further state benefits under the program after August 28, 2013, governing authorities may still designate zones and provide local tax abatement. This act modifies notification requirements for public hearings before an enhanced enterprise zone may be established. The requirement that the Director of the Department of Economic Development be notified of public hearings and that the Director or Director's designee attend are eliminated.

An enhanced enterprise zone may be created by ordinance or resolution by the governing authority. Approval by the Department of Economic Development is not longer required and the enhanced enterprise zone will become effective upon passage of the resolution or ordinance.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

JH:LR:OD

SOURCES OF INFORMATION

Department of Agriculture
Department of Economic Development
Department of Higher Education
Department of Insurance, Financial Institutions and Professional Registration
Department of Natural Resources
Department of Revenue
Joint Committee on Administrative Rules
Linn State Technical College
Metropolitan Community College
Missouri House of Representatives
Missouri Senate
Office of Administration
  Budget and Planning
Office of the Governor
Office of State Treasurer

Ross Strope
Acting Director
March 12, 2013

JH:LR:OD