COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2114H.02P
Bill No.: Perfected HCS for HB 939
Subject: Economic Development; Department of Economic Development; Tax Incentives
Type: Original
Date: March 30, 2023

Bill Summary: This proposal enacts provisions relating to income tax incentives for economic development investments.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*/**	$0 or (Unknown)	Up to or could exceed ($14,769,638)	Up to or could exceed ($14,753,740)
Total Estimated Net Effect on General Revenue*	**$0 or (Unknown)**	**Up to or could exceed ($14,769,638)**	**Up to or could exceed ($14,753,740)**

*Oversight notes Section(s) 620.2000 to 620.2020 expand the MO Works program to include store front consumer-based retail trade establishments in second class counties as qualified companies. This may expand the number of eligible participants and result in additional credits being authorized, issued and redeemed under this program. However, the proposal does not change the annual cap of the program.

** **HA 2** - Oversight has shown the potential tax credit issuances & redemptions up to the maximum cap ($14.5 million annually) under the proposal and DED's estimated FTE cost (Up to 2 FTE).

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue Fund*	1 Up to 2 FTE	1 Up to 2 FTE	1 Up to 2 FTE
Total Estimated Net Effect on FTE	**1 Up to 2 FTE**	**1 Up to 2 FTE**	**1 Up to 2 FTE**

*Oversight notes the DED will potentially need up to 2 FTE depending on how many projects comply with HA 1 requirements.

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Revenue (DOR)** note:

Section 620.2005 MO Works

This adds second class counties to those who can participate under the MO Works program. While this may expand the number of eligible participants this proposal does not change the cap of the program and therefore, it will not have any additional fiscal impact

Section 620.2015 MOWorks

This section would change the cap on the retention of jobs portion of the Missouri Works tax credit program. The retention of jobs cap is currently $6 million and this proposal would increase it to $10 million. The MOWorks program has a total cap of $116 million and this would just be dedicating more of the cap to the retention of jobs portion of the credit. No fiscal impact.

For informational purposes, the MOWorks program was started in 2013 with the passage of HB 184. It has both a tax credit component and allows for the retaining of employee's withholding tax. HB 184 set aside $6 million of the credit to help keep businesses from leaving the state. At the time MOWorks was started, it was given a cap of $106 million which was increased to $111 million in 2015 and then to $116 million in 2016. In 2021, the program was expanded to include an additional credit for military jobs with an extra $10 million cap and $10 million for infrastructure jobs.

Below is information on the authorization, issuance and redemption of the credits over the last few years.

Year	Authorized	Issued	Total Redeemed
FY 2022	$80,498,453.00	$131,465,595.90	$134,716,930.11
FY 2021	$230,661,649.74	$112,293,173.91	$100,393,654.20
FY 2020	$153,823,786.33	$134,393,278.36	$113,472,125.29
FY 2019	$100,482,945.49	$82,326,471.67	$64,786,980.04
FY 2018	$185,732,973.08	$45,830,250.31	$56,398,908.94
FY 2017	$155,506,188.16	$35,547,214.37	$35,065,682.60

FY 2016	$114,719,436.24	$23,741,677.22	$12,075,788.82
FY 2015	$289,578,581.00	$3,588,784.56	$3,588,784.56
FY 2014	$116,445,144.00	$146,923.00	$146,923.00
FY 2013	$0.00	$0.00	$0.00
FY 2012	$0.00	$0.00	$0.00
TOTALS	$1,427,449,157.04	$569,333,369.30	$520,645,777.56

Since this proposal is just reallocating their existing credit amount this will not have a fiscal impact.

Officials from the **Department of Economic Development (DED)** assumes no fiscal impact as a result of the proposed legislation. Increases retention cap from $6M to $10M; however, it does not impact the overall program cap of $126M.

Oversight, for purpose of the fiscal note, provides information regarding the Mo-Works Tax Credit use as below: (see DED tax credit analysis for FY 2022):

	FY 2020 ACTUAL	FY 2021 ACTUAL	FY 2022 ACTUAL
Certificates Issued (#)	54	63	63
Projects/Participants (#)	116	123	84
Amount Authorized	$153,823,786	$230,661,650	$80,498,453
Amount Issued	$134,393,278	$112,293,174	$131,465,596
Amount Redeemed	$113,472,125	$100,393,655	$134,716,930

Oversight notes Section 620.2020.7 (1), RSMo, states the maximum amount of tax credits that may be authorized under the MO-Works program for any fiscal year shall be limited as follows:

(a) For the fiscal year beginning on July 1, 2013, but ending on or before June 30, 2014, no more than one hundred six million dollars in tax credits may be authorized;

(b) For the fiscal year beginning on July 1, 2014, but ending on or before June 30, 2015, no more than one hundred eleven million dollars in tax credits may be authorized;

(c) For fiscal years beginning on or after July 1, 2015, but ending on or before June 30, 2020, no more than one hundred sixteen million dollars in tax credits may be authorized for each fiscal year; and

(d) For all fiscal years beginning on or after July 1, 2020, no more than one hundred six million dollars in tax credits may be authorized for each fiscal year. The provisions of this paragraph shall not apply to tax credits issued to qualified companies under a notice of intent filed prior to July 1, 2020.

(2) For all fiscal years beginning on or after July 1, 2020, in addition to the amount of tax credits that may be authorized under paragraph (d) of subdivision (1) of this subsection, an additional ten million dollars in tax credits may be authorized for each fiscal year for the purpose of the completion of infrastructure projects directly connected with the creation or retention of jobs under the provisions of sections 620.2000 to 620.2020 and an additional ten million dollars in tax credits may be authorized for each fiscal year for a qualified manufacturing company based on a manufacturing capital investment as set forth in section 620.2010.

Oversight notes officials from the DED, through additional correspondence via e-mail, indicate that the proposal allows for expansion of specific cap of one program under MO-Works Tax Credit; however, since the overall MO-Works Tax Credit has a $116 million cap, the money added ($4 million to the existing $6 million appropriation due to the Section 620.2015 – Retention and Capital Investments) would not have an impact to the general revenue fund, or any other state fund.

Officials from the **Office of Administration – Budget & Planning**, the **Department of Commerce and Insurance**, the **Department of Natural Resources**, the **Missouri Department of Conservation**, the **Missouri Department of Transportation**, the **Office of the Secretary of State**, and the **Joint Committee on Administrative Rules** each assume the proposal will have no fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for these entities for this section of the proposal in the fiscal note.

Oversight notes this Section, specifically in subdivision 620.2005 1. (29) (b), that allows for additional counties (2nd Class Counties i.e. Callaway, Newton, and Lincoln) to participate in this program. Oversight assumes this change could increase participation in the program; however, the annual caps remain in place. Therefore, Oversight will note zero impact in the fiscal note stemming from the additional change.

HA 2 - Section 135.1210 tax credit for certain railroad expenses

In response to the a similar proposal from the 2023 session (HCS for HB 657), officials from the **Office of Administration – Budget & Planning (B&P)** assumed the proposed legislation would authorize tax credits beginning on January 1, 2024, to class II and class III railroads for qualified railroad expenditures or qualified new rail infrastructure expenditures completed. A class II railroad is a carrier earning revenue between $20 million and $250 million. A class III railroad is a carrier earning revenue less than $20 million. Subsection 135.1210.5(1) states the cumulative amount of tax credits for qualified railroad track expenditures shall not exceed four million five hundred thousand dollars per tax year. Subsection 135.1210.5(2) states the cumulative amount of tax credits for qualified rail infrastructure expenditures shall not exceed ten million dollars per tax year. If tax credits claimed exceed these amounts, tax credits will be allowed in the order in which they're claimed.

The tax credit will sunset December 31, six years after the effective date unless reauthorized. If the credit is reauthorized, it will sunset twelve years after the effective date. The tax credit will terminate on September 1 of the calendar year immediately following the calendar year it sunsets. Therefore, this proposal may reduce general and total state revenues up to $14,500,000 per fiscal year.

Officials from the **Department of Revenue (DOR)** assume starting January 1, 2024, this proposal creates two tax credits regarding railroads. One shall be allowed to a taxpayer for 50% of their qualified railroad track expenditures and the second for 50% of their qualified new rail

infrastructure expenditures. In order to receive the tax credit, the taxpayer must submit an application to the Department of Economic Development (DED) and proof of expenditures for approval. DED will issue a certificate that will be provided with their tax return.
These credits are not refundable, but are sellable or transferrable and can be carried forward five years. The qualified railroad track expenditures credit has an annual cap of $4.5 million while the qualified new rail infrastructure expenditures credit has an annual cap of $10 million. These credits shall be first-come, first-serve.

Since these credits start on January 1, 2024, this will fiscally impact the state starting January 2025 when the first returns are filed claiming the credit.

Fiscal Year	Loss to General Revenue
2024	$0
2025	($14,500,000)
2026+	($14,500,000)

Since these are new credits they will need to be added to the MO-TC form, the website, and the individual income tax computer system will need to be updated. These changes are estimated at $14,386.

Due to the limited number of taxpayers each year that may qualify for this credit it is assumed DOR can absorb the additional work from the redemptions of this credit using existing FTE. However, should the number of redemptions received equal the following limits or multiple tax credit bills pas, DOR would ask for additional FTE during the appropriation process. DOR needs FTE to process tax credits if the following number of items are received.

- 1 FTE Associate Customer Service Representative for every 6,000 credits redeemed
- 1 FTE Associate Customer Service Representative for every 4,000 tax credit transfers with CISCO phones and license.
- 1 FTE Associate Customer Service Representative for every 7,600 errors/correspondence generated

Oversight assumes the DOR, if necessary, could request additional funding through the appropriation process. Therefore, for purpose of this fiscal note, **Oversight** will note zero impact for the DOR.

Officials from the **Department of Economic Development (DED)** noted:

Section 135.1210 creates "tax credit for qualified railroad infrastructure investments"

The Tax Credit will likely reduce annual TSR by $4.5M for qualified railroad expenditures and $10M for new rail infrastructure expenditures, up to the annual total cap in the amount of $14,500,000 per year.

Tax credit authorized shall be equal to fifty percent of an eligible taxpayer's qualified railroad track expenditures or qualified new rail infrastructure expenditures, provided that, for qualified railroad track expenditures, the amount of tax credit shall not exceed an amount equal to the product of five thousand dollars multiplied by the number of miles of railroad track owned or leased in the state by a Class II or Class III railroad as of the close of the tax year; and for qualified new rail infrastructure expenditures, the amount of tax credit shall not exceed five hundred thousand dollars for each new rail-served customer project of an eligible taxpayer.

Applies to tax years beginning on or after January 1, 2024. The program will automatically sunset December thirty-first, six years after the effective date unless reauthorized by an act of the general assembly.

DED will need to hire 2.0 FTE to administer the act.

Oversight notes the proposal, Specifically Section 135.1210 1. (5) (a) allows for an amount equal to fifty percent of an eligible taxpayer's qualified railroad track expenditures up to $5,000 dollars per mile or qualified new rail infrastructure expenditures of up to $1,000,000 per each new project.

Oversight notes subdivision 5 (5)(a) proposes the cumulative amount of tax credits for qualified railroad track expenditures shall note exceed $4.5 million for existing rail projects, and subdivision 5(5)(b)proposes the cumulative amount for new rail infrastructure expenditure shall not exceed $10 million.

Oversight notes according to the DED research on this subject Missouri is home to 19 railroads operating on nearly 4,400 miles of track, 2,500 miles of yard track, and about 7,000 public and private crossings.

Oversight notes DED requests two additional FTE (Senior Economic Development Specialists) in order to assure compliance and administration of the act. However, Oversight notes the amount of projects or taxpayers applying for this specific tax credit could be potentially lower. Therefore, **Oversight** will reflect a range of 1 Up to 2 FTE in the fiscal note.

Lastly, **Oversight** will note the maximum utilization of the tax credit up to $14.5 million beginning in FY 2025 in the fiscal note.

Officials from the **Department of Commerce and Insurance (DCI)** assume a potential unknown decrease of premium tax revenues (up to the tax credit limit established in the bill) in FY2025 and FY2026 as a result of the creation of tax credit for qualified railroad infrastructure investments. 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 throughout 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 and which insurers will qualify for the new tax credit.

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.

Oversight assumes the DCI is provided with core funding to handle a certain amount of activity each year. Oversight assumes DCI could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DCI could request funding through the appropriation process. Therefore, Oversight will note zero administrative impact for DCI for purpose of this fiscal note. **Oversight** will assume for simplification purposes that all credits will be taken against income taxes.

Officials from the **Missouri Department of Transportation**, the **Missouri Department of Agriculture**, the **City of Kansas City**, the **City of Springfield**, and the **Jackson County Commission** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact for above organizations in the fiscal note.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note 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 $5,000. 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 its 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.

FISCAL IMPACT – State Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
Cost – expansion of the Missouri Works program to include store front customer based businesses in 2nd class counties as "qualified companies"	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
Cost – Section 135.1210.5(1) – Railroad Track Expenditures Tax Credit (p.3,5)		Up to ($4,500,000)	Up to ($4,500,000)
Cost – Section 135.1210.5(2) – New Railroad Infrastructure Tax Credit (p.3,5)		Up to ($10,000,000)	Up to ($10,000,000)
Cost – DED – Section(s) 135.1210 1. (5) (a) (p. 5)			
Personnel Service	$0	($76,158) Up to ($152,315)	($77,681) Up to ($155,361)
Fringe Benefits	$0	($44,077) Up to ($88,153)	($44,646) Up to ($89,292)
Expense & Equipment	$0	($14,584) Up to ($29,170)	($4,543) Up to ($9,087)
Total Costs -	$0	($134,819) Up to ($269,638)	($126,870) Up to ($253,740)
FTE Change	0 FTE	1 to 2 FTE	1 to 2 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0 or (Unknown)**	**Up to or Could exceed ($14,769,638)**	**Up to or could exceed ($14,753,740)**
Estimated Net FTE Change on General Revenue	0 FTE	1 Up to 2 FTE	1 Up to 2 FTE

FISCAL IMPACT – Local Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
	$0	**$0**	**$0**

FISCAL IMPACT – Small Business

Small businesses that qualify for these tax credits could be impacted by the bill.

FISCAL DESCRIPTION

This bill increases the total amount of benefits available to all qualified companies under the Missouri Works Program from $6 million to $10 million in any fiscal year.

This bill also allows retail businesses in counties of the second classification to participate in the Missouri Works Program. The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

Beginning January 1, 2024, this bill allows a nonrefundable tax credit for qualified railroad track expenditures, or for qualified new rail infrastructure expenditures, in an amount equal to the taxpayer's qualified amount. The amount of tax credits for qualified railroad track expenditures shall not exceed $4.5 million per tax year. The amount of tax credits for qualified new rail infrastructure expenditures shall not exceed $10 million per tax year.

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

SOURCES OF INFORMATION
Department of Revenue
Department of Economic Development
Missouri Department of Agriculture
Office of Administration – Budget & Planning
Department of Commerce and Insurance
Department of Natural Resources
Missouri Department of Conservation
Missouri Department of Transportation
Office of the Secretary of State
Joint Committee on Administrative Rules

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