

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2225

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEARA.

5898H.01P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 447.708, RSMo, and to enact in lieu thereof one new section relating to tax credits for redevelopment projects.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 447.708, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 447.708, to read as follows:

447.708. 1. For eligible projects, the director of the department of economic development, with notice to the directors of the departments of natural resources and revenue, and subject to the other provisions of sections 447.700 to 447.718, may not create a new enterprise zone but may decide that a prospective operator of a facility being remedied and renovated pursuant to sections 447.700 to 447.718 may receive the tax credits and exemptions pursuant to sections 135.100 to 135.150 and sections 135.200 to 135.257. The tax credits allowed pursuant to this subsection shall be used to offset the tax imposed by chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, or the tax otherwise imposed by chapter 147, or the tax otherwise imposed by chapter 148. For purposes of this subsection:

(1) For receipt of the ad valorem tax abatement pursuant to section 135.215, the eligible project must create at least ten new jobs or retain businesses which supply at least twenty-five existing jobs. The city, or county if the eligible project is not located in a city, must provide ad valorem tax abatement of at least fifty percent for a period not less than ten years and not more than twenty-five years;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (2) For receipt of the income tax exemption pursuant to section 135.220 and tax credit
16 for new or expanded business facilities pursuant to sections 135.100 to 135.150, and 135.225,
17 the eligible project must create at least ten new jobs or retain businesses which supply at least
18 twenty-five existing jobs, or combination thereof. For purposes of sections 447.700 to 447.718,
19 the tax credits described in section 135.225 are modified as follows: the tax credit shall be four
20 hundred dollars per employee per year, an additional four hundred dollars per year for each
21 employee exceeding the minimum employment thresholds of ten and twenty-five jobs for new
22 and existing businesses, respectively, an additional four hundred dollars per year for each person
23 who is a person difficult to employ as defined by section 135.240, and investment tax credits at
24 the same amounts and levels as provided in subdivision (4) of subsection 1 of section 135.225;

25 (3) For eligibility to receive the income tax refund pursuant to section 135.245, the
26 eligible project must create at least ten new jobs or retain businesses which supply at least
27 twenty-five existing jobs, or combination thereof, and otherwise comply with the provisions of
28 section 135.245 for application and use of the refund and the eligibility requirements of this
29 section;

30 (4) The eligible project operates in compliance with applicable environmental laws and
31 regulations, including permitting and registration requirements, of this state as well as the federal
32 and local requirements;

33 (5) The eligible project operator shall file such reports as may be required by the director
34 of economic development or the director's designee;

35 (6) The taxpayer may claim the state tax credits authorized by this subsection and the
36 state income exemption for a period not in excess of ten consecutive tax years. For the purpose
37 of this section, "taxpayer" means an individual proprietorship, partnership or corporation
38 described in section 143.441 or 143.471 who operates an eligible project. The director shall
39 determine the number of years the taxpayer may claim the state tax credits and the state income
40 exemption based on the projected net state economic benefits attributed to the eligible project;

41 (7) For the purpose of meeting the new job requirement prescribed in subdivisions (1),
42 (2) and (3) of this subsection, it shall be required that at least ten new jobs be created and
43 maintained during the taxpayer's tax period for which the credits are earned, in the case of an
44 eligible project that does not replace a similar facility in Missouri. "New job" means a person
45 who was not previously employed by the taxpayer or related taxpayer within the twelve-month
46 period immediately preceding the time the person was employed by that taxpayer to work at, or
47 in connection with, the eligible project on a full-time basis. "Full-time basis" means the
48 employee works an average of at least thirty-five hours per week during the taxpayer's tax period
49 for which the tax credits are earned. For the purposes of this section, related taxpayer has the
50 same meaning as defined in subdivision (9) of section 135.100;

51 (8) For the purpose of meeting the existing job retention requirement, if the eligible
52 project replaces a similar facility that closed elsewhere in Missouri prior to the end of the
53 taxpayer's tax period in which the tax credits are earned, it shall be required that at least
54 twenty-five existing jobs be retained at, and in connection with the eligible project, on a full-time
55 basis during the taxpayer's tax period for which the credits are earned. "Retained job" means a
56 person who was previously employed by the taxpayer or related taxpayer, at a facility similar to
57 the eligible project that closed elsewhere in Missouri prior to the end of the taxpayer's tax period
58 in which the tax credits are earned, within the tax period immediately preceding the time the
59 person was employed by the taxpayer to work at, or in connection with, the eligible project on
60 a full-time basis. "Full-time basis" means the employee works an average of at least thirty-five
61 hours per week during the taxpayer's tax period for which the tax credits are earned;

62 (9) In the case where an eligible project replaces a similar facility that closed elsewhere
63 in Missouri prior to the end of the taxpayer's tax period in which the tax credits are earned, the
64 owner and operator of the eligible project shall provide the director with a written statement
65 explaining the reason for discontinuing operations at the closed facility. The statement shall
66 include a comparison of the activities performed at the closed facility prior to the date the facility
67 ceased operating, to the activities performed at the eligible project, and a detailed account
68 describing the need and rationale for relocating to the eligible project. If the director finds the
69 relocation to the eligible project significantly impaired the economic stability of the area in
70 which the closed facility was located, and that such move was detrimental to the overall
71 economic development efforts of the state, the director may deny the taxpayer's request to claim
72 tax benefits;

73 (10) Notwithstanding any provision of law to the contrary, for the purpose of this
74 section, the number of new jobs created and maintained, the number of existing jobs retained,
75 and the value of new qualified investment used at the eligible project during any tax year shall
76 be determined by dividing by twelve, in the case of jobs, the sum of the number of individuals
77 employed at the eligible project, or in the case of new qualified investment, the value of new
78 qualified investment used at the eligible project, on the last business day of each full calendar
79 month of the tax year. If the eligible project is in operation for less than the entire tax year, the
80 number of new jobs created and maintained, the number of existing jobs retained, and the value
81 of new qualified investment created at the eligible project during any tax year shall be
82 determined by dividing the sum of the number of individuals employed at the eligible project,
83 or in the case of new qualified investment, the value of new qualified investment used at the
84 eligible project, on the last business day of each full calendar month during the portion of the tax
85 year during which the eligible project was in operation, by the number of full calendar months
86 during such period;

87 (11) For the purpose of this section, "new qualified investment" means new business
88 facility investment as defined and as determined in subdivision (7) of section 135.100 which is
89 used at and in connection with the eligible project. "New qualified investment" shall not include
90 small tools, supplies and inventory. "Small tools" means tools that are portable and can be hand
91 held.

92 2. The determination of the director of economic development pursuant to subsection
93 1 of this section shall not affect requirements for the prospective purchaser to obtain the approval
94 of the granting of real property tax abatement by the municipal or county government where the
95 eligible project is located.

96 3. (1) The director of the department of economic development, with the approval of
97 the director of the department of natural resources, may, in addition to the tax credits allowed
98 in subsection 1 of this section, grant a remediation tax credit to the applicant for up to one
99 hundred percent of the costs of materials, supplies, equipment, labor, professional engineering,
100 consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement,
101 and direct utility charges for performing the voluntary remediation activities for the preexisting
102 hazardous substance contamination and releases, including, but not limited to, the costs of
103 performing operation and maintenance of the remediation equipment at the property beyond the
104 year in which the systems and equipment are built and installed at the eligible project and the
105 costs of performing the voluntary remediation activities over a period not in excess of four tax
106 years following the taxpayer's tax year in which the system and equipment were first put into use
107 at the eligible project, provided the remediation activities are the subject of a plan submitted to,
108 and approved by, the director of natural resources pursuant to sections 260.565 to 260.575. The
109 tax credit may also include up to one hundred percent of the costs of demolition that are not
110 directly part of the remediation activities, provided that the demolition is on the property where
111 the voluntary remediation activities are occurring, the demolition is necessary to accomplish the
112 planned use of the facility where the remediation activities are occurring, and the demolition is
113 part of a redevelopment plan approved by the municipal or county government and the
114 department of economic development. The demolition may occur on an adjacent property if the
115 project is located in a municipality which has a population less than twenty thousand and the
116 above conditions are otherwise met. The adjacent property shall independently qualify as
117 abandoned or underutilized. The amount of the credit available for demolition not associated
118 with remediation cannot exceed the total amount of credits approved for remediation including
119 demolition required for remediation.

120 (2) The amount of remediation tax credits issued shall be limited to the least amount
121 necessary to cause the project to occur, as determined by the director of the department of
122 economic development.

123 (3) The director may, with the approval of the director of natural resources, extend the
124 tax credits allowed for performing voluntary remediation maintenance activities, in increments
125 of three-year periods, not to exceed five consecutive three-year periods. The tax credits allowed
126 in this subsection shall be used to offset the tax imposed by chapter 143, excluding withholding
127 tax imposed by sections 143.191 to 143.265, or the tax otherwise imposed by chapter 147, or the
128 tax otherwise imposed by chapter 148. The remediation tax credit may be taken in the same tax
129 year in which the tax credits are received or may be taken over a period not to exceed twenty
130 years.

131 (4) The project facility shall be projected to create at least ten new jobs or at least
132 twenty-five retained jobs, or a combination thereof, as determined by the department of
133 economic development, to be eligible for tax credits pursuant to this section.

134 (5) No more than seventy-five percent of earned remediation tax credits may be issued
135 when the remediation costs were paid, and the remaining percentage may be issued when the
136 department of natural resources issues a letter of completion letter or covenant not to sue
137 following completion of the voluntary remediation activities. It shall not include any costs
138 associated with ongoing operational environmental compliance of the facility or remediation
139 costs arising out of spills, leaks, or other releases arising out of the ongoing business operations
140 of the facility. In the event the department of natural resources issues a letter of completion for
141 a portion of a property, an impacted media such as soil or groundwater, or for a site or a portion
142 of a site improvement, a prorated amount of the remaining percentage may be released based on
143 the percentage of the total site receiving a letter of completion.

144 4. In the exercise of the sound discretion of the director of the department of economic
145 development or the director's designee, the tax credits and exemptions described in this section
146 may be terminated, suspended or revoked, if the eligible project fails to continue to meet the
147 conditions set forth in this section. In making such a determination, the director shall consider
148 the severity of the condition violation, actions taken to correct the violation, the frequency of any
149 condition violations and whether the actions exhibit a pattern of conduct by the eligible facility
150 owner and operator. The director shall also consider changes in general economic conditions and
151 the recommendation of the director of the department of natural resources, or his or her designee,
152 concerning the severity, scope, nature, frequency and extent of any violations of the
153 environmental compliance conditions. The taxpayer or person claiming the tax credits or
154 exemptions may appeal the decision regarding termination, suspension or revocation of any tax
155 credit or exemption in accordance with the procedures outlined in subsections 4 [to 6] **and 5** of
156 section 135.250. The director of the department of economic development shall notify the
157 directors of the departments of natural resources and revenue of the termination, suspension or

158 revocation of any tax credits as determined in this section or pursuant to the provisions of section
159 447.716.

160 5. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
161 credits, exemptions or refund otherwise allowed in subdivisions (2), (3) and (4) of subsection
162 1 of this section and the tax credits otherwise allowed in section 135.110, or the tax credits,
163 exemptions and refund otherwise allowed in sections 135.215, 135.220, 135.225 and 135.245,
164 respectively, for the same facility for the same tax period.

165 6. The total amount of the tax credits allowed in subsection 1 of this section may not
166 exceed the greater of:

167 (1) That portion of the taxpayer's income attributed to the eligible project; or

168 (2) One hundred percent of the total business' income tax if the eligible facility does not
169 replace a similar facility that closed elsewhere in Missouri prior to the end of the taxpayer's tax
170 period in which the tax credits are earned, and further provided the taxpayer does not operate any
171 other facilities besides the eligible project in Missouri; fifty percent of the total business' income
172 tax if the eligible facility replaces a similar facility that closed elsewhere in Missouri prior to the
173 end of the taxpayer's tax period in which the credits are earned, and further provided the taxpayer
174 does not operate any other facilities besides the eligible project in Missouri; or twenty-five
175 percent of the total business income if the taxpayer operates, in addition to the eligible facility,
176 any other facilities in Missouri. In no case shall a taxpayer operating more than one eligible
177 project in Missouri be allowed to offset more than twenty-five percent of the taxpayer's business
178 income in any tax period. That portion of the taxpayer's income attributed to the eligible project
179 as referenced in subdivision (1) of this subsection, for which the credits allowed in sections
180 135.110 and 135.225 and subsection 3 of this section, may apply, shall be determined in the same
181 manner as prescribed in subdivision (6) of section 135.100. That portion of the taxpayer's
182 franchise tax attributed to the eligible project for which the remediation tax credit may offset,
183 shall be determined in the same manner as prescribed in paragraph (a) of subdivision (6) of
184 section 135.100.

185 7. Taxpayers claiming the state tax benefits allowed in subdivisions (2) and (3) of
186 subsection 1 of this section shall be required to file all applicable tax credit applications, forms
187 and schedules prescribed by the director during the taxpayer's tax period immediately after the
188 tax period in which the eligible project was first put into use. Otherwise, the taxpayer's right to
189 claim such state tax benefits shall be forfeited. Unused business facility and enterprise zone tax
190 credits shall not be carried forward but shall be initially claimed for the tax period during which
191 the eligible project was first capable of being used, and during any applicable subsequent tax
192 periods.

193 8. Taxpayers claiming the remediation tax credit allowed in subsection 3 of this section
194 shall be required to file all applicable tax credit applications, forms and schedules prescribed by
195 the director during the taxpayer's tax period immediately after the tax period in which the eligible
196 project was first put into use, or during the taxpayer's tax period immediately after the tax period
197 in which the voluntary remediation activities were performed.

198 9. The recipient of remediation tax credits, for the purpose of this subsection referred to
199 as assignor, may assign, sell or transfer, in whole or in part, the remediation tax credit allowed
200 in subsection 3 of this section to any other person, for the purpose of this subsection referred to
201 as assignee. To perfect the transfer, the assignor shall provide written notice to the director of
202 the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective,
203 the assignee's name, address and the assignee's tax period and the amount of tax credits to be
204 transferred. The number of tax periods during which the assignee may subsequently claim the
205 tax credits shall not exceed twenty tax periods, less the number of tax periods the assignor
206 previously claimed the credits before the transfer occurred.

207 10. In the case where an operator and assignor of an eligible project has been certified
208 to claim state tax benefits allowed in subdivisions (2) and (3) of subsection 1 of this section, and
209 sells or otherwise transfers title of the eligible project to another taxpayer or assignee who
210 continues the same or substantially similar operations at the eligible project, the director shall
211 allow the assignee to claim the credits for a period of time to be determined by the director;
212 except that, the total number of tax periods the tax credits may be earned by the assignor and the
213 assignee shall not exceed ten. To perfect the transfer, the assignor shall provide written notice
214 to the director of the assignor's intent to transfer the tax credits to the assignee, the date the
215 transfer is effective, the assignee's name, address, and the assignee's tax period, and the amount
216 of tax credits to be transferred.

217 11. For the purpose of the state tax benefits described in this section, in the case of a
218 corporation described in section 143.471 or partnership, in computing Missouri's tax liability,
219 such state benefits shall be allowed to the following:

220 (1) The shareholders of the corporation described in section 143.471;

221 (2) The partners of the partnership. The credit provided in this subsection shall be
222 apportioned to the entities described in subdivisions (1) and (2) of this subsection in proportion
223 to their share of ownership on the last day of the taxpayer's tax period.

224 **12. Notwithstanding any provision of law to the contrary, in any county of the first**
225 **classification that has a charter form of government and that has a population of over nine**
226 **hundred thousand inhabitants, all demolition costs incurred during the redevelopment of**
227 **any former automobile manufacturing plant shall be allowable costs eligible for tax credits**
228 **under sections 447.700 to 447.718. For purposes of this subsection, "former automobile**

229 **manufacturing plant" means a redevelopment area that qualifies as an eligible project**
230 **under section 447.700, that consists of at least one hundred acres, and that was used**
231 **primarily for the manufacture of automobiles but, after 2007, ceased such manufacturing.**

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