

SS SCS HCS HB 2393 -- TAX CREDIT FOR MEGA-PROJECTS IN ENHANCED ENTERPRISE ZONES

This bill authorizes an income tax credit for a mega-project that will be equal to a percentage of the taxpayer's payroll. No mega-projects can be approved after December 31, 2008. The Department of Economic Development cannot approve any tax credits for mega-projects prior to January 1, 2013, and no more than \$40 million can be issued annually for all mega-projects or to any single taxpayer. The total amount of tax credits issued cannot exceed \$240 million.

"Mega-project" is defined as any manufacturing or assembling facility approved by the department for construction and operation that is located within an enhanced enterprise zone and which:

- (1) Projects new capital investment in excess of \$300 million over an eight-year period from the date the project is approved by the department;
- (2) Projects that the number of new jobs will exceed 1,000 over an eight-year period from the date the project is approved by the department;
- (3) Pays an average wage for new jobs that exceeds the county average wage;
- (4) Offers health insurance to all new employees and pays at least 80% of the premiums; and
- (5) Provides an acceptable plan to repay the mega-project's tax credits to the state.

The taxpayer may submit an application to the department for approval of a mega-project, and the department may approve an application if certain specified criteria are met. Prior to final approval of an application, a binding contract must be executed between the taxpayer and the department. The contract must include:

- (1) A repayment plan providing for cash payments to the General Revenue Fund which will result in a positive internal rate of return to the state and fully complying with the provisions of the World Trade Organization Agreement on Subsidies and Countervailing Measures. The rate of return must, over the life of the project, exceed 150% of the state's borrowing costs, based on the AAA-rated 20-year tax exempt bond rate average over a 20-year borrowing period. The rate must be verified by a professional third-party financial analysis;

(2) A requirement that the department will stop issuing tax credits if, at any point, the total amount of tax credits issued, less the total amount of repayments received, equals \$155 million;

(3) An obligation that the taxpayer construct a facility of at least one million square feet within five years from the date the project is approved; and

(4) A requirement that tax credits will cease to be issued and the taxpayer will immediately repay the state an amount equal to all credits previously issued, less any amounts repaid, plus an additional amount that will provide the state a reasonable rate of return, if the taxpayer fails to meet any of the specified obligations.

Upon the application's approval, tax credits will be issued annually for up to eight years from the commencement of the mega-project's commercial operations and may be extended beyond the life of the enhanced enterprise zone. Tax credits will be equal to the following percentages of annual payroll for the new jobs located at the mega-project:

(1) 80% for the first three years that tax credits are issued for the mega-project;

(2) 60% for the next two subsequent years;

(3) 50% for the next two subsequent years; and

(4) 30% for the remaining year.

These tax credits may be claimed against income taxes imposed in Chapter 143, RSMo, excluding withholding taxes. The credits are redeemable; however, owners of these tax credits are not required to have any Missouri income tax liability in order to redeem the credits and receive a refund. The credits may be sold or transferred but cannot be carried forward past the year of issuance.

Taxpayers who are issued these credits must provide an annual report to the department and the House of Representatives and Senate appropriations committees. The bill specifies the requirements of the report. Taxpayers cannot simultaneously receive tax credits under the New or Expanded Business Facility Program, Enterprise Zones Program, Relocating a Business to a Distressed Community Program, or Quality Jobs Program. If the department determines the average wage is below the county average wage or the taxpayer has not maintained the employee health insurance as required, the taxpayer will not receive tax

credits for that year.

Any action brought in any court contesting the approval of a mega-project and the issuance of tax credits or any other action related to the mega-project must be filed within 90 days of the department's approval of the mega-project.

Records and documents relating to the proposed mega-project will be deemed closed until the application has been approved; however, information containing business plan information which may endanger the competitiveness of the business will remain closed.

Taxpayers, and related taxpayers, who receive these credits are prohibited from directly employing certain individuals prior to January 1, 2022. These individuals are:

(1) Any elected Missouri public official holding office as of January 1, 2008; or

(2) Any director, deputy director, division director, or employee directly involved in negotiations between the department and the taxpayer regarding the mega-project who was employed by the department as of January 1, 2008.