

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 70
93RD GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, February 14, 2005, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

TERRY L. SPIELER, Secretary.

0405S.02C

AN ACT

To repeal sections 100.710 and 135.284, RSMo, section 100.840 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 289, ninety-second general assembly, first regular session, section 100.840 as enacted by senate committee substitute for senate bill no. 620, ninety-second general assembly, first regular session, section 100.850 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 1182, ninety-second general assembly, second regular session, section 100.850 as enacted by house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, first regular session, and section 100.850 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 1394, ninety-second general assembly, second regular session, and to enact in lieu thereof four new sections relating to business use incentives for large-scale development.

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

Section A. Sections 100.710 and 135.284, RSMo, section 100.840 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 289, ninety-second general assembly, first regular session, section 100.840 as enacted by senate committee substitute for senate bill no. 620, ninety-second general assembly, first regular session, section 100.850 as enacted by conference committee substitute for senate substitute for senate committee substitute for

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

house committee substitute for house bill no. 1182, ninety-second general assembly, second regular session, section 100.850 as enacted by house substitute for senate committee substitute for senate bill no. 1155, ninety-second general assembly, first regular session, and section 100.850 as enacted by conference committee substitute for house substitute for house committee substitute for senate bill no. 1394, ninety-second general assembly, second regular session, are repealed and four new sections enacted in lieu thereof, to be known as sections 100.710, 100.840, 100.850, and 135.284, to read as follows:

100.710. As used in sections 100.700 to 100.850, the following terms mean:

(1) "Assessment", an amount of up to five percent of the gross wages paid in one year by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo;

(2) "Board", the Missouri development finance board as created by section 100.265;

(3) "Certificates", the revenue bonds or notes authorized to be issued by the board pursuant to section 100.840;

(4) "Credit", the amount agreed to between the board and an eligible industry, but not to exceed the assessment attributable to the eligible industry's project;

(5) "Department", the Missouri department of economic development;

(6) "Director", the director of the department of economic development;

(7) "Economic development project":

(a) The acquisition of any real property by the board, the eligible industry, or its affiliate; or

(b) The fee ownership of real property by the eligible industry or its affiliate; and

(c) For both paragraphs (a) and (b) of this subdivision, "economic development project" shall also include the development of the real property including construction, installation, or equipping of a project, including fixtures and equipment, and facilities necessary or desirable for improvement of the real property, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries and other surface obstructions; filling, grading and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site construction of utility extensions

to the boundaries of the real property; and the acquisition, installation, or equipping of facilities on the real property, for use and occupancy by the eligible industry or its affiliates;

(8) "Eligible employee", a person employed on a full-time basis in a new job at the economic development project averaging at least thirty-five hours per week who was not employed by the eligible industry or a related taxpayer in this state at any time during the twelve-month period immediately prior to being employed at the economic development project. For an essential industry, a person employed on a full-time basis in an existing job at the economic development project averaging at least thirty-five hours per week may be considered an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

(9) "Eligible industry", a business located within the state of Missouri which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, health or professional services. "Eligible industry" does not include a business which closes or substantially reduces its operation at one location in the state and relocates substantially the same operation to another location in the state. This does not prohibit a business from expanding its operations at another location in the state provided that existing operations of a similar nature located within the state are not closed or substantially reduced. This also does not prohibit a business from moving its operations from one location in the state to another location in the state for the purpose of expanding such operation provided that the board determines that such expansion cannot reasonably be accommodated within the municipality in which such business is located, or in the case of a business located in an incorporated area of the county, within the county in which such business is located, after conferring with the chief elected official of such municipality or county and taking into consideration any evidence offered by such municipality or county regarding the ability to accommodate such expansion within such municipality or county. An eligible industry must:

(a) Invest a minimum of fifteen million dollars, or ten million dollars for an office industry, in an economic development project; and

(b) Create a minimum of one hundred new jobs for eligible employees at the economic development project or a minimum of five hundred jobs if the

economic development project is an office industry or a minimum of two hundred new jobs if the economic development project is an office industry located within a distressed community as defined in section 135.530, RSMo, or in the case of an approved company for a project for a world headquarters of a business whose primary function is tax return preparation in any home rule city with more than four hundred thousand inhabitants and located in more than one county, create a minimum of one hundred new jobs for eligible employees at the economic development project. An industry that meets the definition of "essential industry" may be considered an eligible industry for the purposes of the program authorized by sections 100.700 to 100.850;

Notwithstanding the preceding provisions of this subdivision, a development agency, as such term is defined in subdivision (3) of section 100.255, or a corporation, limited liability company, or partnership formed on behalf of a development agency, at the option of the board, may be authorized to act as an eligible industry with such obligations and rights otherwise applicable to an eligible industry, including the rights of an approved company under section 100.850, so long as the eligible industry otherwise meets the requirements imposed by this subsection.

(10) "Essential industry", a business that otherwise meets the definition of eligible industry except an essential industry shall:

- (a) Be a targeted industry;
- (b) Be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants;
- (c) Have maintained at least two thousand jobs at the proposed economic development project site each year for a period of four years preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made and during the year in which said application is made;
- (d) For the duration of the certificates, retain at the proposed economic development project site the level of employment that existed at the site in the taxable year immediately preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made; and
- (e) Invest a minimum of five hundred million dollars in the economic development project by the end of the third year after the issuance of the certificates under this program;

(11) "New job", a job in a new or expanding eligible industry not including jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the state. For an essential industry, an existing job may be considered a new job for the purposes of the program authorized by sections 100.700 to 100.850;

(12) "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company, or a credit card billing and processing center;

(13) "Program costs", all necessary and incidental costs of providing program services including payment of the principal of premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, and funding and maintenance of a debt service reserve fund to secure such certificates. Program costs shall include:

(a) Obligations incurred for labor and obligations incurred to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction, installation or equipping of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;

(e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and

(f) All other costs of a nature comparable to those described in this subdivision;

(14) "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates;

(15) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and

growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

100.840. 1. To provide funds for the present payment of the costs of economic development projects, the board may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board, and may bear interest at such rate or rates as the board shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. Certificates may be issued for the purpose of refunding a like, greater or lesser principal amount of certificates and may bear a higher, lower or equivalent rate of interest than the certificates being renewed or refunded.

3. The board shall determine if revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

4. Certificates issued pursuant to this section shall not be deemed to be an indebtedness of the state or the board or of any political subdivision of the state.

[100.840. 1. To provide funds for the present payment of the costs of economic development projects, the board may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement. The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount

of not less than ninety-five percent of the par value thereof, at the discretion of the board, and may bear interest at such rate or rates as the board shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. Certificates may be issued for the purpose of refunding a like, greater or lesser principal amount of certificates and may bear a higher, lower or equivalent rate of interest than the certificates being renewed or refunded.

3. The board shall determine if revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

4. Certificates issued pursuant to this section shall not be deemed to be an indebtedness of the state or the board or of any political subdivision of the state.]

[100.850. 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the

board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed eleven million dollars annually. If the approved company shall be a project for a world headquarters of a business whose primary function is tax return preparation in any home rule city with more than four hundred thousand inhabitants and located in more than one county, the aggregate amount of tax credits authorized by subsection 4 of this section shall be increased to eleven million nine hundred fifty thousand dollars annually.

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.]

100.850. 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed fifteen million dollars annually. **Of such amount, nine hundred fifty thousand dollars shall be reserved for an approved project for a world headquarters of a business whose primary function is tax return preparation that is located in any home rule city with more than four hundred thousand inhabitants and located in more than one county, which amount reserved shall end in the year of the final maturity of the certificates issued for such approved project.**

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.

[100.850. 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except

withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed eleven million nine hundred fifty thousand dollars annually. Of such amount, nine hundred fifty thousand dollars shall be reserved for an approved project for a world headquarters of a business whose primary function is tax return preparation that is located in any home rule city with more than four hundred thousand inhabitants and located in more than one county.

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.]

135.284. The repeal and reenactment of sections 99.845, 100.710, [100.840, 100.850] and 178.892, and the enactment of sections 135.276, 135.277, 135.279, 135.281, and 135.283 shall expire on January 1, 2006, if no essential industry retention projects have been approved by the department of economic development by December 31, 2005. If an essential industry retention project has been approved by the department of economic development by December 31, 2005, the repeal and reenactment of sections 99.845, 100.710, [100.840, 100.850] and 178.892, and the enactment of sections 135.276, 135.277, 135.279, 135.281, and 135.283 shall expire on January 1, 2020.

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