

Senate File 522

H-1719

1 Amend the amendment, H-1716, to Senate File 522, as
2 passed by the Senate, as follows:

3 1. By striking page 1, line 5, through page 23,
4 line 7 and inserting:

5 <<Section 1. Section 331.512, Code 2011, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 13A. Carry out duties relating to
8 the business property tax credit as provided in chapter
9 426C.

10 Sec. 2. Section 331.559, Code 2011, is amended by
11 adding the following new subsection:

12 NEW SUBSECTION. 14A. Carry out duties relating to
13 the business property tax credit as provided in chapter
14 426C.

15 Sec. 3. NEW SECTION. **426C.1 Definitions.**

16 For the purposes of this chapter, unless the context
17 otherwise requires:

18 1. "*Contiguous parcels*" means any of the following:

19 a. Parcels that share a common boundary.

20 b. Parcels within the same building or structure
21 regardless of whether the parcels share a common
22 boundary.

23 c. Improvements to the land that are situated on
24 one or more parcels of land that are assessed and taxed
25 separately from the improvements if the parcels of land
26 upon which the improvements are situated share a common
27 boundary.

28 2. "*Department*" means the department of revenue.

29 3. "*Fund*" means the business property tax credit
30 fund created in section 426C.2.

31 4. "*Parcel*" means as defined in section 445.1.

32 5. "*Property unit*" means contiguous parcels all of
33 which are located within the same county, with the same
34 property tax classification, each of which contains
35 permanent improvements, are owned by the same person,
36 and are operated by that person for a common use and
37 purpose.

38 Sec. 4. NEW SECTION. **426C.2 Business property tax
39 credit fund — appropriation.**

40 1. A business property tax credit fund is created
41 in the state treasury under the authority of the
42 department. For the fiscal year beginning July 1,
43 2012, there is appropriated from the general fund of
44 the state to the department to be credited to the
45 fund, the sum of fifty million dollars to be used
46 for business property tax credits authorized in this
47 chapter. For the fiscal year beginning July 1, 2013,
48 and each fiscal year thereafter, there is appropriated
49 from the general fund of the state to the department
50 to be credited to the fund an amount equal to the

1 total amount appropriated by the general assembly to
2 the fund in the previous fiscal year. In addition,
3 the sum of fifty million dollars shall be added to the
4 appropriation in each fiscal year beginning on or after
5 July 1, 2013, if the revenue estimating conference
6 certifies during its final meeting of the calendar year
7 ending prior to the beginning of the fiscal year that
8 the total amount of general fund revenues collected
9 during the fiscal year ending during such calendar year
10 was at least one hundred four percent of the total
11 amount of general fund revenues collected during the
12 previous fiscal year. However, the total appropriation
13 to the fund shall not exceed two hundred million
14 dollars for any one fiscal year.

15 2. Notwithstanding section 12C.7, subsection 2,
16 interest or earnings on moneys deposited in the fund
17 shall be credited to the fund. Moneys in the fund are
18 not subject to the provisions of section 8.33 and shall
19 not be transferred, used, obligated, appropriated,
20 or otherwise encumbered except as provided in this
21 chapter.

22 Sec. 5. NEW SECTION. 426C.3 Claims for credit.

23 1. Each person who wishes to claim the credit
24 allowed under this chapter shall obtain the appropriate
25 forms from the assessor and file the claim with the
26 assessor. The director of revenue shall prescribe
27 suitable forms and instructions for such claims, and
28 make such forms and instructions available to the
29 assessors.

30 2. a. Claims for the business property tax credit
31 shall be filed not later than March 15 preceding the
32 fiscal year during which the taxes for which the credit
33 is claimed are due and payable.

34 b. A claim filed after the deadline for filing
35 claims shall be considered as a claim for the following
36 year.

37 3. Upon the filing of a claim and allowance of the
38 credit, the credit shall be allowed on the parcel or
39 property unit for successive years without further
40 filing as long as the parcel or property unit satisfies
41 the requirements for the credit. If the parcel or
42 property unit owner ceases to qualify for the credit
43 under this chapter, the owner shall provide written
44 notice to the assessor by the date for filing claims
45 specified in subsection 2 following the date on which
46 the parcel or property unit ceases to qualify for the
47 credit.

48 4. When all or a portion of a parcel or property
49 unit that is allowed a credit under this chapter is
50 sold, transferred, or ownership otherwise changes, the

1 buyer, transferee, or new owner who wishes to receive
2 the credit shall refile the claim for credit. When a
3 portion of a parcel or property unit that is allowed
4 a credit under this chapter is sold, transferred, or
5 ownership otherwise changes, the owner of the portion
6 of the parcel or property unit for which ownership did
7 not change shall refile the claim for credit.

8 5. The assessor shall remit the claims for
9 credit to the county auditor with the assessor's
10 recommendation for allowance or disallowance. If
11 the assessor recommends disallowance of a claim,
12 the assessor shall submit the reasons for the
13 recommendation, in writing, to the county auditor. The
14 county auditor shall forward the claims to the board
15 of supervisors. The board shall allow or disallow the
16 claims.

17 6. For each claim and allowance of a credit for
18 a property unit, the county auditor shall calculate
19 the average of all consolidated levy rates applicable
20 to the several parcels within the property unit. All
21 claims for credit which have been allowed by the board
22 of supervisors, the actual value of the improvements
23 to such parcels and property units applicable to
24 the fiscal year for which the credit is claimed
25 that are subject to assessment and taxation prior to
26 imposition of any applicable assessment limitation,
27 the consolidated levy rates for such parcels and the
28 average consolidated levy rates for such property units
29 applicable to the fiscal year for which the credit is
30 claimed, and the taxing districts in which the parcel
31 or property unit is located, shall be certified on or
32 before June 30, in each year, by the county auditor to
33 the department.

34 7. The assessor shall maintain a permanent file of
35 current business property tax credits. The assessor
36 shall file a notice of transfer of property for which a
37 credit has been allowed when notice is received from
38 the office of the county recorder, from the person
39 who sold or transferred the property, or from the
40 personal representative of a deceased property owner.
41 The county recorder shall give notice to the assessor
42 of each transfer of title filed in the recorder's
43 office. The notice from the county recorder shall
44 describe the property transferred, the name of the
45 person transferring title to the property, and the name
46 of the person to whom title to the property has been
47 transferred.

48 **Sec. 6. NEW SECTION. 426C.4 Eligibility and amount**
49 **of credit.**

50 1. Each parcel classified and taxed as commercial

1 property, industrial property, or railway property
2 under chapter 434, and improved with permanent
3 construction, is eligible for a credit under this
4 chapter. A person may claim and receive one credit
5 under this chapter for each eligible parcel unless
6 the parcel is part of a property unit. A person
7 may only claim and receive one credit under this
8 chapter for each property unit. A credit approved
9 for a property unit shall be allocated to the several
10 parcels within the property unit in the proportion
11 that each parcel's total amount of property taxes due
12 and payable attributable to the improvements bears to
13 the total amount of property taxes due and payable
14 attributable to the improvements for the property unit.
15 Only property units comprised of commercial property,
16 comprised of industrial property, or comprised of
17 railway property under chapter 434 are eligible for a
18 credit under this chapter.

19 2. Using the actual value of the improvements and
20 the consolidated levy rate for each parcel or the
21 average consolidated levy rate for each property unit,
22 as certified by the county auditor to the department
23 under section 426C.3, subsection 6, the department
24 shall calculate, for each fiscal year, an initial
25 amount of actual value of improvements for use in
26 determining the amount of the credit for each such
27 parcel or property unit so as to provide the maximum
28 possible credit according to the credit formula and
29 limitations under subsection 3, and to provide a
30 total dollar amount of credits against the taxes due
31 and payable in the fiscal year equal to ninety-eight
32 percent of the moneys in the fund following the deposit
33 of the total appropriation for the fiscal year.

34 3. a. The amount of the credit for each parcel or
35 property unit for which a claim for credit under this
36 chapter has been approved shall be calculated under
37 paragraph "b" using the lesser of the initial amount
38 of actual value of the improvements determined by the
39 department under subsection 2, and the actual value
40 of the improvements to the parcel or property unit as
41 certified by the county auditor under section 426C.3,
42 subsection 6.

43 b. The amount of the credit for each parcel or
44 property unit for which a claim for credit under
45 this chapter has been approved shall be equal to the
46 amount of actual value determined under paragraph "a"
47 multiplied by the difference, stated as a percentage,
48 between the assessment limitation applicable to
49 the parcel or property unit under section 441.21,
50 subsection 5, and the assessment limitation applicable

1 to residential property under section 441.21,
2 subsection 4, divided by one thousand dollars, and then
3 multiplied by the consolidated levy rate or average
4 consolidated levy rate for one thousand dollars of
5 taxable value applicable to the parcel or property unit
6 for the fiscal year for which the credit is claimed as
7 certified by the county auditor under section 426C.3,
8 subsection 6.

9 **Sec. 7. NEW SECTION. 426C.5 Payment to counties.**

10 1. Annually the department shall certify to the
11 county auditor of each county the amounts of the
12 business property tax credits allowed in the county.
13 Each county auditor shall then enter the credits
14 against the tax levied on each eligible parcel or
15 property unit in the county, designating on the tax
16 lists the credit as being from the fund. Each taxing
17 district shall receive its share of the business
18 property tax credit allowed on each eligible parcel
19 or property unit in such taxing district, in the
20 proportion that the levy made by such taxing district
21 upon the parcel or property unit bears to the total
22 levy upon the parcel or property unit by all taxing
23 districts imposing a property tax in such taxing
24 district. However, the several taxing districts
25 shall not draw the moneys so credited until after the
26 semiannual allocations have been received by the county
27 treasurer, as provided in this section. Each county
28 treasurer shall show on each tax receipt the amount of
29 credit received from the fund.

30 2. The director of the department of administrative
31 services shall issue warrants on the fund payable to
32 the county treasurers of the several counties of the
33 state under this chapter.

34 3. The amount due each county shall be paid in two
35 payments on November 15 and March 15 of each fiscal
36 year, drawn upon warrants payable to the respective
37 county treasurers. The two payments shall be as nearly
38 equal as possible.

39 **Sec. 8. NEW SECTION. 426C.6 Appeals.**

40 1. If the board of supervisors disallows a claim
41 for credit under section 426C.3, subsection 5, the
42 board of supervisors shall send written notice, by
43 mail, to the claimant at the claimant's last known
44 address. The notice shall state the reasons for
45 disallowing the claim for the credit. The board of
46 supervisors is not required to send notice that a claim
47 for credit is disallowed if the claimant voluntarily
48 withdraws the claim. Any person whose claim is denied
49 under the provisions of this chapter may appeal from
50 the action of the board of supervisors to the district

1 court of the county in which the parcel or property
2 unit is located by giving written notice of such appeal
3 to the county auditor within twenty days from the date
4 of mailing of notice of such action by the board of
5 supervisors.

6 2. If any claim for credit has been denied by the
7 board of supervisors, and such action is subsequently
8 reversed on appeal, the credit shall be allowed on the
9 applicable parcel or property unit, and the director of
10 revenue, the county auditor, and the county treasurer
11 shall provide the credit and change their books and
12 records accordingly. In the event the appealing
13 taxpayer has paid one or both of the installments of
14 the tax payable in the year or years in question,
15 remittance shall be made to such taxpayer of the amount
16 of such credit. The amount of such credit awarded on
17 appeal shall be allocated and paid from the balance
18 remaining in the fund.

19 Sec. 9. NEW SECTION. 426C.7 Audit — denial.

20 1. If on the audit of a credit provided under this
21 chapter, the director of revenue determines the amount
22 of the credit to have been incorrectly calculated or
23 that the credit is not allowable, the director shall
24 recalculate the credit and notify the taxpayer and the
25 county auditor of the recalculation or denial and the
26 reasons for it. The director shall not adjust a credit
27 after three years from October 31 of the year in which
28 the claim for the credit was filed. If the credit has
29 been paid, the director shall give notification to the
30 taxpayer, the county treasurer, and the applicable
31 assessor of the recalculation or denial of the credit
32 and the county treasurer shall proceed to collect the
33 tax owed in the same manner as other property taxes due
34 and payable are collected, if the parcel or property
35 unit for which the credit was allowed is still owned
36 by the taxpayer. If the parcel or property unit
37 for which the credit was allowed is not owned by the
38 taxpayer, the amount may be recovered from the taxpayer
39 by assessment in the same manner that income taxes are
40 assessed under sections 422.26 and 422.30. The amount
41 of such erroneous credit, when collected, shall be
42 deposited in the fund.

43 2. The taxpayer or board of supervisors may
44 appeal any decision of the director of revenue to the
45 state board of tax review pursuant to section 421.1,
46 subsection 5. The taxpayer, the board of supervisors,
47 or the director of revenue may seek judicial review
48 of the action of the state board of tax review in
49 accordance with chapter 17A.

50 Sec. 10. NEW SECTION. 426C.8 False claim —

1 penalty.

2 A person who makes a false claim for the purpose of
3 obtaining a credit provided for in this chapter or who
4 knowingly receives the credit without being legally
5 entitled to it is guilty of a fraudulent practice. The
6 claim for a credit of such a person shall be disallowed
7 and if the credit has been paid the amount shall be
8 recovered in the manner provided in section 426C.7. In
9 such cases, the director of revenue shall send a notice
10 of disallowance of the credit.

11 Sec. 11. NEW SECTION. **426C.9 Rules.**

12 The director of revenue shall prescribe forms,
13 instructions, and rules pursuant to chapter 17A, as
14 necessary, to carry out the purposes of this chapter.

15 Sec. 12. IMPLEMENTATION. Notwithstanding the
16 deadline for filing claims established in section
17 426C.3, for a credit against property taxes due and
18 payable during the fiscal year beginning July 1, 2012,
19 the claim for the credit shall be filed not later than
20 January 15, 2012.

21 Sec. 13. APPLICABILITY. This Act applies to
22 property taxes due and payable in fiscal years
23 beginning on or after July 1, 2012.>>

THOMAS of Clayton