LEGISLATIVE SERVICES AGENCY

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Fiscal Note

Fiscal Services Division

HF 2443 – Economic Development Authority Miscellaneous Administration Bill (LSB5171HZ.1)
Analyst: Ron Robinson (Phone: 515-281-6256) (ron.robinson@legis.iowa.gov)
Fiscal Note Version – As amended and passed by the House

Description

House File 2443, as amended and passed by the House, relates to the programs and duties of the Economic Development Authority (Authority) and modifies life cycle cost analysis provisions related to public facilities, makes technical changes pertaining to the High Quality Jobs Program, modifies the Authority's assistance provisions under the Business Outreach Program, modifies provisions concerning enterprise zones, and transfers certain duties to the Authority under the Historic Preservation and Cultural Entertainment District (HPCED) Tax Credit Program.

Division III of the bill relates to the Authority's Business Outreach Program. The Program provides technical and financial assistance to businesses applying for federal small business innovation research and small business technology transfer program grants and contracts.

Current law allows the state to recapture the amount of the HPCED Tax Credit, along with interest, penalties, attorney fees, and litigation costs, if the original holder of the tax credit certificate obtained the tax credit by way of a prohibited activity. Division V strikes joint and several liability provisions under current law, as applied to bona fide purchasers of such tax credits; however, liability for transferees with actual notice of misrepresentation, fraud, or unlawful acts or omissions by the original holder of the tax credit certificate prior to the transfer is maintained.

Division V of the bill also relates to the HPCED Tax Credit by transferring administrative oversight of the Tax Credit from the Department of Cultural Affairs (DCA) to the Authority. In relation to the Tax Credit, for qualified rehabilitation projects with agreements entered into on or after July 1, 2014, Division V allows a taxpayer to elect to receive a refund of any Credit in excess of the taxpayer's liability or to credit the excess against the tax liability for the following five-years or until depleted, whichever is earlier. Under current law, the Credit is refundable with interest; however, in lieu of a refund, the excess may be credited against tax liability for the following year.

Current Iowa Code section **404A.4**(2) allows the value of certain tax credits that are revoked or declined by June 30, 2016, to be awarded to other projects within the fiscal year the tax credits are revoked or declined. The bill extends the deadline to June 30, 2019.

The bill requires the Authority and the Department of Revenue (DOR) to agree on the cost to implement specified provisions of the bill and if they are unable to agree, the Department of Management (DOM) is required to determine the cost. The bill requires the costs to be paid from fees that are charged to taxpayers that apply to participate in the HPCED Tax Credit Program.

Background

Under current law, the Authority is allowed to provide financial assistance of up to $25,000 to any single business and is allowed to provide such financial assistance as matching funds to allow a business to qualify for federal programs. Division III provides that the Authority may provide financial assistance of up to $100,000 to a business for any individual federal award and the financial assistance may be used for any purpose to allow a business to meet federal program requirements. The Authority uses an allocation for Innovation and Commercialization made from the High Quality Job Creation Financial Assistance appropriation to make awards, specified in Division III of the bill, pertaining to the federal small business programs. The bill does not change the total funding that is available for the awards.

The administration of the HPCED Tax Credit, as specified in Division V of the bill, is conducted within the Tax Credit Award, Claim and Transfer Administration System (CACTAS). The CACTAS is a statewide system under construction by the DOR for all Iowa tax credit awards and claims. The proposed changes to the administration of the HPCED Tax Credit will require changes to the various administrative rules built into the CACTAS for the HPCED Tax Credit.

The DCA and the DOR have identified the following tax credit reservations that may be revoked.

Total Identified Projects for Revocation
(millions)

Fiscal Year of Reservation	Fiscal Year of Revocation	Reserved Amounts
FY 2014	FY 2017	$ 15.76
FY 2015	FY 2018	20.06
FY 2016	FY 2019	14.83
Total		**$ 50.65**

Assumptions

- The magnitude of changes for the CACTAS will only be known once the Authority and the DCA provide the DOR with business requirements about the change in the administration of the HPCED Tax Credit.
- All HPCED Tax Credits that have been reserved and identified by the DCA and the DOR as potentially being revoked will not be utilized and will be revoked or expire without a change in law.
- With the law change, the value of all HPCED Tax Credits that are revoked or expired will be issued to applicants and 56.0% of those Credits will utilized.

Fiscal Impact

- The cost to the state for the DOR to modify the CACTAS application and the award administration component for the HPCED Tax Credit ranges from an estimated $20,000 to $475,000 for FY 2017. The bill requires the DOR to utilize fee revenue to offset the cost of the modifications.
- While recognizing that both of the following situations exist and/or could exist in the future, the DOR has not provided a fiscal estimate for either situation. The changes to the HPCED tax credit process have two potential negative fiscal impacts on the State General Fund:
  1. Current law allows the recapture of tax credit awards from the original HPCED tax credit holder and from any transferee if the tax credits awards were obtained through a prohibited activity. The bill protects transferees from possible tax credit recapture if it cannot be shown that the transferee knew of the prohibited activity. If such a situation exists now or in the future, and recapture cannot be made from the original certificate holder, this provision will have a negative fiscal impact by prohibiting a recapture available under current law.
  2. The bill makes tax credits that have been transferred refundable for the transferee. Under current law the transferred tax credits are not refundable once transferred. If an entity currently has possession of transferred tax credit certificates and does not have

Iowa tax liability, the tax credits cannot be used and cannot impact the State General Fund. With the transfer language included in the bill, the credits will be redeemed and will negatively impact the State General Fund.

3. The bill allows existing tax credit reservations that have been irrevocably declined or revoked to be issued to other applicants. This will have the following estimated negative fiscal impact on the General Fund:

General Fund Fiscal Impact (in millions)		
FY 2017	$	-0.04
FY 2018		-2.40
FY 2019		-6.04
FY 2020		-7.97
FY 2021		-6.83
FY 2022		-3.70
FY 2023		-1.38
	$	-28.36

- The remaining provisions of the bill are estimated to not have a significant fiscal impact.

Sources

Department of Revenue
Iowa Economic Development Authority
Department of Cultural Affairs

/s/ Holly M. Lyons

April 11, 2016

The fiscal note for this bill was prepared pursuant to **Joint Rule 17** and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.