

MAR 9 2004
WAYS AND MEANS

HOUSE FILE 2511
BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO HSB 679)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to area development and joint exercise of
2 governmental powers, related county enterprise authority, and
3 providing tax credits for economic development areas.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2511

1 DIVISION I

2 Section 1. NEW SECTION. 15E.231 ECONOMIC DEVELOPMENT
3 AREAS.

4 1. The department shall approve an economic development
5 area if the area establishes a single, focused economic
6 development effort, approved by the department, that shall
7 include the development of a regional development plan and
8 regional marketing strategies. Regional marketing strategies
9 must be focused on marketing the area collectively.

10 2. An approved economic development area may create an
11 economic development area revolving fund as provided in
12 section 15E.232. An existing area economic development fund
13 may be used by the area as the economic development area
14 revolving fund.

15 Sec. 2. NEW SECTION. 15E.232 ECONOMIC DEVELOPMENT AREA
16 REVOLVING FUNDS -- TAX CREDITS.

17 1. An economic development area approved pursuant to
18 section 15E.231 may create an economic development area
19 revolving fund.

20 2. a. A nongovernmental entity making a contribution to
21 an economic development area revolving fund at any time prior
22 to July 1, 2009, may claim a tax credit equal to twenty
23 percent of the amount contributed to the revolving fund. The
24 tax credit shall be allowed against taxes imposed in chapter
25 422, divisions II, III, and V, and in chapter 432, and against
26 the moneys and credits tax imposed in section 533.24. An
27 individual may claim under this subsection the tax credit of a
28 partnership, limited liability company, S corporation, estate,
29 or trust electing to have income taxed directly to the
30 individual. The amount claimed by the individual shall be
31 based upon the pro rata share of the individual's earnings
32 from the partnership, limited liability company, S
33 corporation, estate, or trust. Any tax credit in excess of
34 the taxpayer's liability for the tax year may be credited to
35 the tax liability for the following seven years or until

1 depleted, whichever occurs first. A tax credit shall not be
2 carried back to a tax year prior to the tax year in which the
3 taxpayer redeems the tax credit. A tax credit under this
4 section is not transferable.

5 b. The aggregate amount of tax credits authorized pursuant
6 to this subsection shall not total more than twenty million
7 dollars. The total amount of tax credits authorized during a
8 fiscal year shall not exceed four million dollars plus the
9 amount of any unused tax credits carried over from previous
10 years. Any tax credits which remain unused for a fiscal year
11 may be carried forward to the succeeding fiscal year. The
12 maximum amount of tax credits that may be authorized in a
13 fiscal year for contributions made to a specific economic
14 development area revolving fund shall be four million dollars
15 plus the amount of any unused tax credits carried over from
16 previous years divided by the number of economic development
17 area revolving funds existing in the state.

18 c. The department of economic development shall administer
19 the authorization of tax credits under this section and shall,
20 in cooperation with the department of revenue, adopt rules
21 pursuant to chapter 17A necessary for the administration of
22 this section.

23 3. The department may establish and administer an area
24 economic development revenue sharing pilot project for one or
25 more areas. Not more than three pilot projects shall be
26 established. The department of economic development shall
27 provide technical assistance to the areas participating in a
28 pilot project.

29 Sec. 3. NEW SECTION. 422.11J ECONOMIC DEVELOPMENT AREA
30 REVOLVING FUND TAX CREDIT.

31 The taxes imposed under this division, less the credits
32 allowed under sections 422.12 and 422.12B, shall be reduced by
33 an economic development area revolving fund contribution tax
34 credit authorized pursuant to section 15E.232.

35 Sec. 4. Section 422.33, Code Supplement 2003, is amended

1 by adding the following new subsection:

2 NEW SUBSECTION. 16. The taxes imposed under this division
3 shall be reduced by an economic development area revolving
4 fund contribution tax credit authorized pursuant to section
5 15E.232.

6 Sec. 5. Section 422.60, Code Supplement 2003, is amended
7 by adding the following new subsection:

8 NEW SUBSECTION. 8. The taxes imposed under this division
9 shall be reduced by an economic development area revolving
10 fund contribution tax credit authorized pursuant to section
11 15E.232.

12 Sec. 6. NEW SECTION. 432.12E ECONOMIC DEVELOPMENT AREA
13 REVOLVING FUND CONTRIBUTION TAX CREDITS.

14 The tax imposed under this chapter shall be reduced by an
15 economic development area revolving fund contribution tax
16 credit authorized pursuant to section 15E.232.

17 Sec. 7. Section 533.24, Code Supplement 2003, is amended
18 by adding the following new subsection:

19 NEW SUBSECTION. 6. The moneys and credits tax imposed
20 under this section shall be reduced by an economic development
21 area revolving fund contribution tax credit authorized
22 pursuant to section 15E.232.

23 DIVISION II

24 Sec. 8. Section 28E.35, Code 2003, is amended to read as
25 follows:

26 28E.35 DEFINITIONS.

27 As used in this division unless the context otherwise
28 requires:

29 1. "Community cluster" means a cooperative community unit
30 established pursuant to this chapter for the joint exercise of
31 powers by two or more governmental units and for sharing one
32 or more governmental functions between two or more
33 governmental units participating in a community cluster.

34 2. "Governing board" means the governing board of a
35 community cluster appointed pursuant to section 28E.37.

1 ~~2-~~ 3. "Governmental unit" means a city, county, township,
2 school district, merged area as defined in section 260C.2, or
3 special taxing district.

4 4. "Shared governmental function" includes, but is not
5 limited to, joint delivery of services, joint operation of
6 facilities, joint development of infrastructure, or joint
7 fostering of economic development.

8 Sec. 9. Section 28E.36, Code 2003, is amended to read as
9 follows:

10 28E.36 ESTABLISHMENT OF COMMUNITY CLUSTER.

11 Two or more governmental units located in the state may, by
12 resolution of each governmental unit, establish a community
13 ~~cluster by entering into an agreement~~ for the joint exercise
14 of powers pursuant to this chapter to make more efficient use
15 of their resources by providing for ~~joint functions, services,~~
16 ~~facilities, development of infrastructure and for revenue~~
17 ~~sharing, and to foster economic development~~ shared
18 governmental functions between two or more of the governmental
19 units participating in the community cluster.

20 A community cluster and its governing board shall have all
21 the rights, powers, duties, privileges, and immunities of a
22 governmental unit and governmental unit governing body to the
23 extent that such rights, powers, duties, privileges, and
24 immunities relate to shared governmental functions of the
25 governmental units participating in the community cluster.

26 Sec. 10. Section 28E.37, Code 2003, is amended by striking
27 the section and inserting in lieu thereof the following:

28 28E.37 COMMUNITY CLUSTER GOVERNING BOARD.

29 The governing body of each governmental unit participating
30 in a community cluster shall appoint two of its members to a
31 community cluster governing board. However, an alternative
32 board composition may be agreed upon by the participating
33 governmental units. A member of the governing board shall
34 serve for two years or until the member's term on the
35 governing body of the governmental unit expires, whichever is

1 earlier. A vacancy on the governing board shall be filled in
2 the same manner as the original appointment. A member of the
3 governing board shall not receive compensation for service on
4 the governing board.

5 Sec. 11. Section 28E.38, Code 2003, is amended by striking
6 the section and inserting in lieu thereof the following:

7 28E.38 POWERS AND DUTIES OF GOVERNING BOARD -- EXISTING
8 BONDED INDEBTEDNESS -- TAXING AUTHORITY.

9 1. The governing board shall identify governmental
10 functions, services, facilities, development of
11 infrastructure, or economic development efforts that will be
12 shared or jointly provided or operated within the community
13 cluster.

14 2. The governing board shall establish an official name
15 for the community cluster.

16 3. The governing board may provide for the transfer or
17 other disposition of property and other rights, claims,
18 assets, and franchises as they relate to a shared governmental
19 function within the community cluster. A governmental unit
20 participating in a community cluster may make donations of
21 property, real or personal, including gratuitous leases, to
22 the community cluster and the governing board as deemed proper
23 and appropriate in aiding the community cluster and the
24 governing board effectuate their purposes.

25 4. The governing board may provide for the transfer,
26 reorganization, abolition, adjustment, and absorption or
27 merger of existing boards, existing subordinate service
28 districts, local improvement districts, and agencies of the
29 participating governmental units to the extent they relate to
30 a shared governmental function within the community cluster.

31 5. The governing board may determine the boundaries of the
32 service areas within the community cluster and shall provide
33 for administration of the provision of services in each of the
34 designated service areas.

35 6. The governing board may employ and fix the compensation

1 of administrative, technical, professional, and clerical
2 assistance as necessary to administer a shared governmental
3 function.

4 7. a. The governing board may adopt budgets for shared
5 governmental functions within the community cluster and may
6 levy property taxes to the extent the taxing authority of a
7 participating governmental unit is transferred to the
8 community cluster to fund a shared governmental function. The
9 governing board in its budget shall allocate the revenue
10 responsibilities of each governmental unit participating in
11 the community cluster. The governing board shall follow the
12 same procedures for adoption of a budget as if the community
13 cluster were a city and the governing board a city council.

14 b. The governing board shall devise formulas for the
15 transfer of taxing authority from governmental units that are
16 participating in the community cluster to the governing board
17 of the community cluster to fund a shared governmental
18 function. The maximum rates of taxes authorized to be levied
19 by a governmental unit participating in a community cluster
20 shall be reduced by an amount equal to that portion of the
21 levy rates transferred to the authority of the governing
22 board.

23 c. In lieu of transferring property taxing authority to a
24 governing board, a governmental unit participating in a
25 community cluster may meet its shared revenue obligations by
26 transferring other sources of revenue authorized to be
27 collected by the governmental unit.

28 8. The governing board may accept donations,
29 contributions, grants, or gifts from individuals,
30 associations, municipal and private corporations, and the
31 United States, or any agency or instrumentality of the United
32 States, and may enter into agreements in connection therewith.

33 9. The governing board may issue bonded indebtedness to
34 the extent authorized in section 28E.39.

35 10. By December 1 of each year, the governing board shall

1 provide a report relating to shared governmental functions and
2 administration of the community cluster to the governing body
3 of each governmental unit participating in the community
4 cluster.

5 Sec. 12. Section 28E.39, Code 2003, is amended by striking
6 the section and inserting in lieu thereof the following:

7 28E.39 ISSUANCE OF BONDS -- APPROVAL BY ELECTORATE.

8 1. The governing board may propose the expenditure of
9 funds, the issuance of revenue bonds, entering into a lease-
10 purchase agreement, or the issuance of general obligation
11 bonds for the following:

12 a. Acquisition of a construction site and construction of
13 a building or facility for common public use by two or more
14 governmental units participating in the community cluster.

15 b. Purchase of an existing building or facility for public
16 use, or conversion of a building or facility previously owned
17 and maintained by a governmental unit for public use by two or
18 more governmental units participating in the community
19 cluster.

20 c. Equipping or furnishing a new or existing building or
21 facility for public use by two or more governmental units
22 participating in the community cluster.

23 d. Operation, maintenance, or improvement of a building or
24 facility for public use by two or more governmental units
25 participating in the community cluster.

26 e. Any other aspect of construction, acquisition,
27 furnishing, operation, or maintenance of a building or
28 facility for public use by two or more governmental units
29 participating in the community cluster, such other aspect
30 having been proposed by the governing board and not otherwise
31 prohibited by law.

32 2. The proposal shall be forwarded to the governing body
33 of each governmental unit participating in the community
34 cluster that is listed in the proposal as being allocated a
35 portion of the cost for any of the purposes in subsection 1,

1 paragraphs "a" through "e". The proposal shall specify the
2 purposes for which the building or facility shall be used, the
3 estimated cost of the building or facility, the estimated
4 amount of the cost to be allocated to each of the
5 participating governmental units, the proportion and method of
6 allocating the expenses of the operation and maintenance of
7 the building or facility or improvement, and the disposition
8 to be made of any revenues to be derived from operation of the
9 building or facility.

10 3. If a proposal for expenditure of funds, for issuance of
11 revenue bonds, or for issuance of general obligation bonds
12 described in the proposal as essential county purpose bonds or
13 essential corporate purpose bonds is approved by the governing
14 body of each governmental unit named in the proposal, the
15 governing board may include such expenditures in its budget
16 for the following fiscal year. If a proposal for issuance of
17 general obligation bonds described in the proposal as general
18 county purpose bonds or general corporate purpose bonds or for
19 entering into a lease-purchase agreement is approved by the
20 governing body of each governmental unit named in the
21 proposal, the governing board shall direct the county
22 commissioner of elections to submit the proposition at a
23 special election. The special election may be held on the
24 same day as the general election if the county commissioner
25 determines that the elections will not conflict. Only those
26 registered voters living within the governmental units named
27 in the proposal may vote on the proposition. The proposition
28 shall be adopted if the vote in favor of the proposition is
29 equal to at least sixty percent of the vote cast for and
30 against the proposition in each governmental unit named in the
31 proposal.

32 4. The governing board when issuing indebtedness pursuant
33 to this section shall follow the procedures for issuance of
34 debt as if the governing board were a city council or a county
35 board of supervisors and the applicable bonding provisions of

1 chapters 74, 75, 331, and 384 shall apply.

2 5. Indebtedness issued pursuant to this section shall
3 constitute a debt of the governmental units named in the
4 proposal in the same proportion that the cost of the project
5 is allocated to the governmental units and such indebtedness
6 is subject to any statutory or constitutional limitation on
7 issuance of debt if the debt would be subject to such
8 limitation if it were issued by a governmental unit acting
9 alone.

10 Sec. 13. Section 28E.40, Code 2003, is amended by striking
11 the section and inserting in lieu thereof the following:

12 28E.40 JOINING COMMUNITY CLUSTER OR TERMINATING
13 PARTICIPATION.

14 1. A governmental unit, by resolution, may request to join
15 an existing community cluster. The governing body of the
16 governmental unit shall forward the resolution to the
17 governing bodies of each governmental unit participating in
18 the community cluster. If each of the governing bodies
19 approves the resolution, the governmental unit is included in
20 the community cluster and shall appoint two of the members of
21 its governing body to the governing board of the community
22 cluster.

23 2. A governmental unit, by resolution, may terminate its
24 participation in a community cluster. Immediately upon its
25 adoption by the governing body of the governmental unit
26 seeking termination of its participation in the community
27 cluster, the resolution shall be forwarded to the governing
28 board. The governing board is not empowered to deny
29 termination but it may set a timetable, not to exceed eighteen
30 months after adoption of the resolution, for termination to be
31 fully effective.

32 Sec. 14. Section 331.461, subsection 2, Code 2003, is
33 amended by adding the following new paragraph:

34 NEW PARAGRAPH. h. Port facilities or port facilities
35 systems, including without limitation, real and personal

1 property, water, buildings, improvements, and equipment useful
2 and suitable for taking care of the needs of commerce and
3 shipping, and also including without limitation, wharves,
4 docks, basins, piers, quay walls, warehouses, tunnels, belt
5 railway facilities, cranes, dock apparatus, and other
6 machinery necessary for the convenient and economical
7 accommodation and handling of watercraft of all kinds and of
8 freight and passengers.

9

EXPLANATION

10 This bill relates to area development and joint exercise of
11 governmental powers and provides tax credits for economic
12 development areas.

13 DIVISION I. Division I of the bill provides that the
14 department of economic development shall approve an economic
15 development area if the area establishes a single, focused
16 economic development effort, approved by the department, that
17 shall include the development of a regional development plan
18 and regional marketing strategies. The bill provides that an
19 approved economic development area may create an economic
20 development area revolving fund.

21 The bill provides that a nongovernmental entity making a
22 contribution to an economic development area revolving fund at
23 any time prior to July 1, 2009, may claim a tax credit equal
24 to 20 percent of the amount contributed to the revolving fund.
25 The tax credit shall be allowed against personal and corporate
26 income tax, the franchise tax for financial institutions, the
27 insurance premium tax, and the moneys and credits tax for
28 credit unions. The bill provides that any tax credit in
29 excess of the taxpayer's liability for the tax year may be
30 credited to the tax liability for the following seven years or
31 until depleted, whichever occurs first. The bill provides
32 that the tax credit shall not be carried back to a tax year
33 prior to the tax year in which the taxpayer redeems the tax
34 credit and is not transferable. The bill provides that the
35 aggregate amount of tax credits authorized shall not total

1 more than \$20 million. The bill provides that the total
2 amount of tax credits authorized during a fiscal year shall
3 not exceed \$4 million plus any unused tax credits carried over
4 from previous years. Any tax credits which remain unused for
5 a fiscal year may be carried forward to the succeeding fiscal
6 year. The bill provides that the maximum amount of tax
7 credits that may be authorized in a fiscal year for
8 contributions made to a specific economic development area
9 revolving fund is equal to \$4 million plus any unused tax
10 credits carried over from previous years divided by the number
11 of economic development area revolving funds existing in the
12 state.

13 The bill allows the department to establish and administer
14 an area economic development revenue sharing pilot project for
15 one or more regions.

16 DIVISION II. Division II of the bill expands current
17 statutory provisions relating to establishment of community
18 clusters. Community clusters are cooperative community units
19 established for the joint exercise of powers by two or more
20 governmental units.

21 Currently, a governmental unit that may participate in a
22 community cluster is defined as a city, county, or special
23 taxing district. The bill adds townships, school districts,
24 and merged areas to the definition of governmental unit. The
25 bill defines "shared governmental functions" to include joint
26 delivery of services, joint operation of facilities, joint
27 development of infrastructure, and joint fostering of economic
28 development.

29 The bill provides that a community cluster and its
30 governing board shall have all the rights, powers, duties,
31 privileges, and immunities, as they relate to shared
32 governmental functions, as those governmental units
33 participating in the community cluster.

34 The bill provides that the governing body of each
35 governmental unit participating in a community cluster may

1 appoint two of its members to a community cluster governing
2 board unless a different board membership is agreed upon by
3 the participating governmental units. The term of a member of
4 the governing board is two years or until the member's term on
5 the governing body expires, whichever is earlier.

6 The bill requires the governing board to identify shared
7 governmental functions of the community cluster. The bill
8 authorizes the governing board to provide for transfer or
9 disposition of property; reorganization of existing
10 administrative boards, agencies, and services districts;
11 acceptance of donations, contributions, grants, or gifts; and
12 employment of necessary personnel insofar as all of these
13 things relate to administration of shared governmental
14 functions within the community cluster. The bill also
15 provides that the governing board has the authority to adopt
16 budgets for shared governmental functions. The bill requires
17 the governing board to devise formulas for the transfer of
18 taxing authority from participating governmental units to fund
19 shared governmental functions. Any amount of taxing authority
20 transferred shall be subtracted from the statutory maximum, if
21 any, for that governmental unit. A participating governmental
22 unit may transfer other revenues, in lieu of transferring
23 property tax authority, in order to meet its shared revenue
24 obligations. The bill requires the governing board to report
25 annually to the governing body of each governmental unit
26 participating in the community cluster.

27 The bill authorizes the governing board to expend funds,
28 enter into lease-purchase agreements, and issue revenue bonds
29 or general obligation bonds for acquisition, construction,
30 improvement, equipping, maintenance, and operation of a
31 building or facility for common public use by two or more
32 governmental units participating in the community cluster.
33 The proposal to expend funds or issue debt for a building or
34 facility must be approved by the governing body of each
35 governmental unit named in the proposal as being allocated a

1 portion of the cost of the building or facility. The bill
2 provides that the governing board is to proceed as if it were
3 a city or a county expending the funds or issuing the
4 indebtedness. This means, among other things, that if the
5 proposal identifies the bonds as general county purpose or
6 general corporate purpose bonds, issuance of such bonds must
7 be approved at an election. Indebtedness that would be
8 subject to any statutory or constitutional limitation if a
9 governmental unit had issued the debt acting alone shall be
10 considered debt of the governmental unit as part of the
11 community cluster in the same proportion that the costs of the
12 building or facility were allocated to the governmental unit.

13 The bill allows a governmental unit, by resolution, to
14 request joining an existing community cluster. The resolution
15 must be approved by the governing bodies of each governmental
16 unit participating in the community cluster. The bill also
17 allows a governmental unit, by resolution, to terminate
18 participation in a community cluster. The governing board may
19 not deny termination, but it may set a timetable, not to
20 exceed 18 months, for termination to be fully effective.

21 The division strikes a section of the Code that required an
22 election before a community cluster could share property tax
23 revenues. The division also strikes a section of the Code
24 relating to establishment of regional metropolitan service
25 areas.

26 The division adds port facilities and port facilities
27 systems to the definition of county enterprise. Currently,
28 port facilities and port facilities systems are included in
29 the definition of city enterprise.

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HSB 679
ECONOMIC GROWTH

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
ECONOMIC GROWTH BILL BY
CHAIRPERSON HOFFMAN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to regional development and joint exercise of
2 governmental powers, related county enterprise authority, and
3 providing tax credits for economic development regions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 DIVISION I

2 Section 1. NEW SECTION. 15E.231 ECONOMIC DEVELOPMENT
3 REGIONS.

4 1. The department shall approve an economic development
5 region that meets the following criteria:

6 a. The region consists of not less than three contiguous
7 counties. This criterion may be waived by the department.

8 b. The region establishes a single, focused economic
9 development effort, approved by the department, that shall
10 include the development of a regional development plan and
11 regional marketing strategies. Regional marketing strategies
12 must be focused on marketing the region collectively.

13 2. An approved economic development region may create an
14 economic development region revolving fund as provided in
15 section 15E.232.

16 Sec. 2. NEW SECTION. 15E.232 ECONOMIC DEVELOPMENT REGION
17 REVOLVING FUNDS -- TAX CREDITS.

18 1. An economic development region approved pursuant to
19 section 15E.231 may create an economic development region
20 revolving fund.

21 2. a. A nongovernmental entity making a contribution to
22 an economic development region revolving fund at any time
23 prior to July 1, 2009, may claim a tax credit equal to twenty
24 percent of the amount contributed to the revolving fund. The
25 tax credit shall be allowed against taxes imposed in chapter
26 422, divisions II, III, and V, and in chapter 432, and against
27 the moneys and credits tax imposed in section 533.24. An
28 individual may claim under this subsection the tax credit of a
29 partnership, limited liability company, S corporation, estate,
30 or trust electing to have income taxed directly to the
31 individual. The amount claimed by the individual shall be
32 based upon the pro rata share of the individual's earnings
33 from the partnership, limited liability company, S
34 corporation, estate, or trust. Any tax credit in excess of
35 the taxpayer's liability for the tax year may be credited to

1 the tax liability for the following seven years or until
2 depleted, whichever occurs first. A tax credit shall not be
3 carried back to a tax year prior to the tax year in which the
4 taxpayer redeems the tax credit. A tax credit under this
5 section is not transferable.

6 b. The aggregate amount of tax credits authorized pursuant
7 to this subsection shall not total more than twenty million
8 dollars. The total amount of tax credits authorized during a
9 fiscal year shall not exceed four million dollars plus the
10 amount of any unused tax credits carried over from previous
11 years. Any tax credits which remain unused for a fiscal year
12 may be carried forward to the succeeding fiscal year. The
13 maximum amount of tax credits that may be authorized in a
14 fiscal year for contributions made to a specific economic
15 development region revolving fund shall be four million
16 dollars plus the amount of any unused tax credits carried over
17 from previous years divided by the number of economic
18 development region revolving funds existing in the state.

19 c. The department of economic development shall administer
20 the authorization of tax credits under this section and shall,
21 in cooperation with the department of revenue, adopt rules
22 pursuant to chapter 17A necessary for the administration of
23 this section.

24 3. The department may establish and administer a regional
25 economic development revenue sharing pilot project for one or
26 more regions. Not more than three pilot projects shall be
27 established. The department of economic development shall
28 provide technical assistance to the regions participating in a
29 pilot project.

30 Sec. 3. NEW SECTION. 422.11J ECONOMIC DEVELOPMENT REGION
31 REVOLVING FUND TAX CREDIT.

32 The taxes imposed under this division, less the credits
33 allowed under sections 422.12 and 422.12B, shall be reduced by
34 an economic development region revolving fund contribution tax
35 credit authorized pursuant to section 15E.232.

1 Sec. 4. Section 422.33, Code Supplement 2003, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 16. The taxes imposed under this division
4 shall be reduced by an economic development region revolving
5 fund contribution tax credit authorized pursuant to section
6 15E.232.

7 Sec. 5. Section 422.60, Code Supplement 2003, is amended
8 by adding the following new subsection:

9 NEW SUBSECTION. 8. The taxes imposed under this division
10 shall be reduced by an economic development region revolving
11 fund contribution tax credit authorized pursuant to section
12 15E.232.

13 Sec. 6. NEW SECTION. 432.12E ECONOMIC DEVELOPMENT REGION
14 REVOLVING FUND CONTRIBUTION TAX CREDITS.

15 The tax imposed under this chapter shall be reduced by an
16 economic development region revolving fund contribution tax
17 credit authorized pursuant to section 15E.232.

18 Sec. 7. Section 533.24, Code Supplement 2003, is amended
19 by adding the following new subsection:

20 NEW SUBSECTION. 6. The moneys and credits tax imposed
21 under this section shall be reduced by an economic development
22 region revolving fund contribution tax credit authorized
23 pursuant to section 15E.232.

24 DIVISION II

25 Sec. 8. Section 28E.35, Code 2003, is amended to read as
26 follows:

27 28E.35 DEFINITIONS.

28 As used in this division unless the context otherwise
29 requires:

30 1. "Community cluster" means a cooperative community unit
31 established pursuant to this chapter for the joint exercise of
32 powers by two or more governmental units and for sharing one
33 or more governmental functions between two or more
34 governmental units participating in a community cluster.

35 2. "Governing board" means the governing board of a

1 community cluster appointed pursuant to section 28E.37.

2 ~~2-~~ 3. "Governmental unit" means a city, county, township,
3 school district, merged area, or special taxing district.

4 4. "Shared governmental function" includes, but is not
5 limited to, joint delivery of services, joint operation of
6 facilities, joint development of infrastructure, or joint
7 fostering of economic development.

8 Sec. 9. Section 28E.36, Code 2003, is amended to read as
9 follows:

10 28E.36 ESTABLISHMENT OF COMMUNITY CLUSTER.

11 Two or more governmental units located in the state may, by
12 resolution of each governmental unit, establish a community
13 ~~cluster by-entering-into-an-agreement~~ for the joint exercise
14 of powers pursuant to this chapter to make more efficient use
15 of their resources by providing for ~~joint-functions, services,~~
16 ~~facilities, development of infrastructure and for revenue~~
17 ~~sharing, and to foster economic development~~ shared
18 governmental functions between two or more of the governmental
19 units participating in the community cluster.

20 A community cluster and its governing board shall have all
21 the rights, powers, duties, privileges, and immunities of a
22 governmental unit and governmental unit governing body to the
23 extent that such rights, powers, duties, privileges, and
24 immunities relate to shared governmental functions of the
25 governmental units participating in the community cluster.

26 Sec. 10. Section 28E.37, Code 2003, is amended by striking
27 the section and inserting in lieu thereof the following:

28 28E.37 COMMUNITY CLUSTER GOVERNING BOARD.

29 The governing body of each governmental unit participating
30 in a community cluster shall appoint two of its members to a
31 community cluster governing board. However, an alternative
32 board composition may be agreed upon by the participating
33 governmental units. A member of the governing board shall
34 serve for two years or until the member's term on the
35 governing body of the governmental unit expires, whichever is

1 earlier. A vacancy on the governing board shall be filled in
2 the same manner as the original appointment. A member of the
3 governing board shall not receive compensation for service on
4 the governing board.

5 Sec. 11. Section 28E.38, Code 2003, is amended by striking
6 the section and inserting in lieu thereof the following:

7 28E.38 POWERS AND DUTIES OF GOVERNING BOARD -- EXISTING
8 BONDED INDEBTEDNESS -- TAXING AUTHORITY.

9 1. The governing board shall identify governmental
10 functions, services, facilities, development of
11 infrastructure, or economic development efforts that will be
12 shared or jointly provided or operated within the community
13 cluster.

14 2. The governing board shall establish an official name
15 for the community cluster.

16 3. The governing board may provide for the adjustment of
17 existing bonded indebtedness and other obligations to the
18 extent the bonded indebtedness relates to a shared
19 governmental function within the community cluster.

20 4. The governing board may provide for the transfer or
21 other disposition of property and other rights, claims,
22 assets, and franchises as they relate to a shared governmental
23 function within the community cluster. A governmental unit
24 participating in a community cluster may make donations of
25 property, real or personal, including gratuitous leases, to
26 the community cluster and the governing board as deemed proper
27 and appropriate in aiding the community cluster and the
28 governing board effectuate their purposes.

29 5. The governing board may provide for the transfer,
30 reorganization, abolition, adjustment, and absorption or
31 merger of existing boards, existing subordinate service
32 districts, local improvement districts, and agencies of the
33 participating governmental units to the extent they relate to
34 a shared governmental function within the community cluster.

35 6. The governing board may determine the boundaries of the

1 service areas within the community cluster and shall provide
2 for administration of the provision of services in each of the
3 designated service areas.

4 7. The governing board may employ and fix the compensation
5 of administrative, technical, professional, and clerical
6 assistance as necessary to administer a shared governmental
7 function.

8 8. a. The governing board may adopt budgets for shared
9 governmental functions within the community cluster and may
10 levy property taxes to the extent the taxing authority of a
11 participating governmental unit is transferred to the
12 community cluster to fund a shared governmental function. The
13 governing board in its budget shall allocate the revenue
14 responsibilities of each governmental unit participating in
15 the community cluster. The governing board shall follow the
16 same procedures for adoption of a budget as if the community
17 cluster were a city and the governing board a city council.

18 b. The governing board shall devise formulas for the
19 transfer of taxing authority from governmental units that are
20 participating in the community cluster to the governing board
21 of the community cluster to fund a shared governmental
22 function. The maximum rates of taxes authorized to be levied
23 by a governmental unit participating in a community cluster
24 shall be reduced by an amount equal to that portion of the
25 levy rates transferred to the authority of the governing
26 board.

27 c. In lieu of transferring property taxing authority to a
28 governing board, a governmental unit participating in a
29 community cluster may meet its shared revenue obligations by
30 transferring other sources of revenue authorized to be
31 collected by the governmental unit.

32 9. The governing board may accept donations,
33 contributions, grants, or gifts from individuals,
34 associations, municipal and private corporations, and the
35 United States, or any agency or instrumentality of the United

1 States, and may enter into agreements in connection therewith.

2 10. The governing board may issue bonded indebtedness to
3 the extent authorized in section 28E.39.

4 11. By December 1 of each year, the governing board shall
5 provide a report relating to shared governmental functions and
6 administration of the community cluster to the governing body
7 of each governmental unit participating in the community
8 cluster.

9 Sec. 12. Section 28E.39, Code 2003, is amended by striking
10 the section and inserting in lieu thereof the following:

11 28E.39 ISSUANCE OF BONDS -- APPROVAL BY ELECTORATE.

12 1. The governing board may propose the expenditure of
13 funds, the issuance of revenue bonds, entering into a lease-
14 purchase agreement, or the issuance of general obligation
15 bonds for the following:

16 a. Acquisition of a construction site and construction of
17 a building or facility for common public use by two or more
18 governmental units participating in the community cluster.

19 b. Purchase of an existing building or facility for public
20 use, or conversion of a building or facility previously owned
21 and maintained by a governmental unit for public use by two or
22 more governmental units participating in the community
23 cluster.

24 c. Equipping or furnishing a new or existing building or
25 facility for public use by two or more governmental units
26 participating in the community cluster.

27 d. Operation, maintenance, or improvement of a building or
28 facility for public use by two or more governmental units
29 participating in the community cluster.

30 e. Any other aspect of construction, acquisition,
31 furnishing, operation, or maintenance of a building or
32 facility for public use by two or more governmental units
33 participating in the community cluster, such other aspect
34 having been proposed by the governing board and not otherwise
35 prohibited by law.

1 2. The proposal shall be forwarded to the governing body
 2 of each governmental unit participating in the community
 3 cluster that is listed in the proposal as being allocated a
 4 portion of the cost for any of the purposes in subsection 1,
 5 paragraphs "a" through "e". The proposal shall specify the
 6 purposes for which the building or facility shall be used, the
 7 estimated cost of the building or facility, the estimated
 8 amount of the cost to be allocated to each of the
 9 participating governmental units, the proportion and method of
 10 allocating the expenses of the operation and maintenance of
 11 the building or facility or improvement, and the disposition
 12 to be made of any revenues to be derived from operation of the
 13 building or facility.

14 3. If a proposal for expenditure of funds, for issuance of
 15 revenue bonds, or for issuance of general obligation bonds
 16 described in the proposal as essential county purpose bonds or
 17 essential corporate purpose bonds is approved by the governing
 18 body of each governmental unit named in the proposal, the
 19 governing board may include such expenditures in its budget
 20 for the following fiscal year. If a proposal for issuance of
 21 general obligation bonds described in the proposal as general
 22 county purpose bonds or general corporate purpose bonds or for
 23 entering into a lease-purchase agreement is approved by the
 24 governing body of each governmental unit named in the
 25 proposal, the governing board shall direct the county
 26 commissioner of elections to submit the proposition at a
 27 special election. The special election may be held on the
 28 same day as the general election if the county commissioner
 29 determines that the elections will not conflict. Only those
 30 registered voters living within the governmental units named
 31 in the proposal may vote on the proposition. The proposition
 32 shall be adopted if the vote in favor of the proposition is
 33 equal to at least sixty percent of the vote cast for and
 34 against the proposition in each governmental unit named in the
 35 proposal.

1 4. The governing board when issuing indebtedness pursuant
2 to this section shall follow the procedures for issuance of
3 debt as if the governing board were a city council or a county
4 board of supervisors and the applicable bonding provisions of
5 chapters 74, 75, 331, and 384 shall apply.

6 5. Indebtedness issued pursuant to this section shall
7 constitute a debt of the governmental units named in the
8 proposal in the same proportion that the cost of the project
9 is allocated to the governmental units and such indebtedness
10 is subject to any statutory or constitutional limitation on
11 issuance of debt if the debt would be subject to such
12 limitation if it were issued by a governmental unit acting
13 alone.

14 Sec. 13. Section 28E.40, Code 2003, is amended by striking
15 the section and inserting in lieu thereof the following:

16 28E.40 JOINING COMMUNITY CLUSTER OR TERMINATING
17 PARTICIPATION.

18 1. A governmental unit, by resolution, may request to join
19 an existing community cluster. The governing body of the
20 governmental unit shall forward the resolution to the
21 governing bodies of each governmental unit participating in
22 the community cluster. If each of the governing bodies
23 approves the resolution, the governmental unit is included in
24 the community cluster and shall appoint two of the members of
25 its governing body to the governing board of the community
26 cluster.

27 2. A governmental unit, by resolution, may terminate its
28 participation in a community cluster. Immediately upon its
29 adoption by the governing body of the governmental unit
30 seeking termination of its participation in the community
31 cluster, the resolution shall be forwarded to the governing
32 board. The governing board is not empowered to deny
33 termination but it may set a timetable, not to exceed eighteen
34 months after adoption of the resolution, for termination to be
35 fully effective.

1 Sec. 14. Section 331.461, subsection 2, Code 2003, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. h. Port facilities or port facilities
4 systems, including without limitation, real and personal
5 property, water, buildings, improvements, and equipment useful
6 and suitable for taking care of the needs of commerce and
7 shipping, and also including without limitation, wharves,
8 docks, basins, piers, quay walls, warehouses, tunnels, belt
9 railway facilities, cranes, dock apparatus, and other
10 machinery necessary for the convenient and economical
11 accommodation and handling of watercraft of all kinds and of
12 freight and passengers.

13 EXPLANATION

14 This bill relates to regional development and joint
15 exercise of governmental powers and provides tax credits for
16 economic development regions.

17 DIVISION I. Division I of the bill provides that the
18 department of economic development shall approve an economic
19 development region that consists of not less than three
20 contiguous counties and establishes a single, focused economic
21 development effort, approved by the department, that shall
22 include the development of a regional development plan and
23 regional marketing strategies. The bill provides that an
24 approved economic development region may create an economic
25 development region revolving fund.

26 The bill provides that a nongovernmental entity making a
27 contribution to an economic development region revolving fund
28 at any time prior to July 1, 2009, may claim a tax credit
29 equal to 20 percent of the amount contributed to the revolving
30 fund. The tax credit shall be allowed against personal and
31 corporate income tax, the franchise tax for financial
32 institutions, the insurance premium tax, and the moneys and
33 credits tax for credit unions. The bill provides that any tax
34 credit in excess of the taxpayer's liability for the tax year
35 may be credited to the tax liability for the following seven

1 years or until depleted, whichever occurs first. The bill
2 provides that the tax credit shall not be carried back to a
3 tax year prior to the tax year in which the taxpayer redeems
4 the tax credit and is not transferable. The bill provides
5 that the aggregate amount of tax credits authorized shall not
6 total more than \$20 million. The bill provides that the total
7 amount of tax credits authorized during a fiscal year shall
8 not exceed \$4 million plus any unused tax credits carried over
9 from previous years. Any tax credits which remain unused for
10 a fiscal year may be carried forward to the succeeding fiscal
11 year. The bill provides that the maximum amount of tax
12 credits that may be authorized in a fiscal year for
13 contributions made to a specific economic development region
14 revolving fund is equal to \$4 million plus any unused tax
15 credits carried over from previous years divided by the number
16 of economic development region revolving funds existing in the
17 state.

18 The bill allows the department to establish and administer
19 a regional economic development revenue sharing pilot project
20 for one or more regions.

21 DIVISION II. Division II of the bill expands current
22 statutory provisions relating to establishment of community
23 clusters. Community clusters are cooperative community units
24 established for the joint exercise of powers by two or more
25 governmental units.

26 Currently, a governmental unit that may participate in a
27 community cluster is defined as a city, county, or special
28 taxing district. The bill adds townships, school districts,
29 and merged areas to the definition of governmental unit. The
30 bill defines "shared governmental functions" to include joint
31 delivery of services, joint operation of facilities, joint
32 development of infrastructure, and joint fostering of economic
33 development.

34 The bill provides that a community cluster and its
35 governing board shall have all the rights, powers, duties,

1 privileges, and immunities, as they relate to shared
2 governmental functions, as those governmental units
3 participating in the community cluster.

4 The bill provides that the governing body of each
5 governmental unit participating in a community cluster may
6 appoint two of its members to a community cluster governing
7 board unless a different board membership is agreed upon by
8 the participating governmental units. The term of a member of
9 the governing board is two years or until the member's term on
10 the governing body expires, whichever is earlier.

11 The bill requires the governing board to identify shared
12 governmental functions of the community cluster. The bill
13 authorizes the governing board to provide for adjustment of
14 existing bonded indebtedness; transfer or disposition of
15 property; reorganization of existing administrative boards,
16 agencies, and services districts; to accept donations,
17 contributions, grants, or gifts; and to employ necessary
18 personnel insofar as all of these things relate to
19 administration of shared governmental functions within the
20 community cluster. The bill also provides that the governing
21 board has the authority to adopt budgets for shared
22 governmental functions. The bill requires the governing board
23 to devise formulas for the transfer of taxing authority from
24 participating governmental units to fund shared governmental
25 functions. Any amount of taxing authority transferred shall
26 be subtracted from the statutory maximum, if any, for that
27 governmental unit. A participating governmental unit may
28 transfer other revenues, in lieu of transferring property tax
29 authority, in order to meet its shared revenue obligations.
30 The bill requires the governing board to report annually to
31 the governing body of each governmental unit participating in
32 the community cluster.

33 The bill authorizes the governing board to expend funds,
34 enter into lease-purchase agreements, and issue revenue bonds
35 or general obligation bonds for acquisition, construction,

1 improvement, equipping, maintenance, and operation of a
2 building or facility for common public use by two or more
3 governmental units participating in the community cluster.
4 The proposal to expend funds or issue debt for a building or
5 facility must be approved by the governing body of each
6 governmental unit named in the proposal as being allocated a
7 portion of the cost of the building or facility. The bill
8 provides that the governing board is to proceed as if it were
9 a city or a county expending the funds or issuing the
10 indebtedness. This means, among other things, that if the
11 proposal identifies the bonds as general county purpose or
12 general corporate purpose bonds, issuance of such bonds must
13 be approved at an election. Indebtedness that would be
14 subject to any statutory or constitutional limitation if a
15 governmental unit had issued the debt acting alone shall be
16 considered debt of the governmental unit as part of the
17 community cluster in the same proportion that the costs of the
18 building or facility were allocated to the governmental unit.

19 The bill allows a governmental unit, by resolution, to
20 request joining an existing community cluster. The resolution
21 must be approved by the governing bodies of each governmental
22 unit participating in the community cluster. The bill also
23 allows a governmental unit, by resolution, to terminate
24 participation in a community cluster. The governing board may
25 not deny termination, but it may set a timetable, not to
26 exceed 18 months, for termination to be fully effective.

27 The division strikes a section of the Code that required an
28 election before a community cluster could share property tax
29 revenues. The division also strikes a section of the Code
30 relating to establishment of regional metropolitan service
31 areas.

32 The division adds port facilities and port facilities
33 systems to the definition of county enterprise. Currently,
34 port facilities and port facilities systems are included in
35 the definition of city enterprise.