TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 2227 - SB 2158

February 17, 2020

SUMMARY OF BILL: Changes parameters relative to franchise and excise (F&E) tax credits for purchases and investments made in brownfield properties. Redefines "capital investment" such that qualifying investments, and not just qualifying business investments, in real property, tangible personal property, or computer software can qualify for the F&E tax credit. Removes the requirement that the lot purchased must be at least five acres. Removes the aggregate annual tax credit limit of $10,000,000, and the credit for development projects located on "non-prime agricultural property". Removes the enhanced capital investment tax credit where, under current law, a taxpayer making an enhanced capital investment of at least $200,000,000 within five years from filing the business plan qualifies for a credit equal to 75 percent of the purchase price of the brownfield property.

Establishes that if a property is in a tier three or tier four county, the F&E tax credit is equal to 75 percent of the purchase price of the property and the credit recipient may offset 75 percent of their total F&E tax liability, as opposed to 50 percent. Further establishes that the minimum amount of the capital investment required for the development project in such counties is $5,000,000, rather than $25,000,000.

Establishes that if a taxpayer acquires a brownfield property from a local government or industrial development board (IDB) for a sale price of less than $1.00, the amount of the F&E tax credit is equal to 50 percent of the most recent purchase price of the brownfield property paid by the local government or the IDB.

Establishes that a taxpayer is not eligible to claim the F&E tax credit until the taxpayer has invested at least $25,000,000 in the qualified development project and the Commissioner of Revenue reviews the claim for the credits and notifies the taxpayer of the appropriate amount.

ESTIMATED FISCAL IMPACT:

Foregone State Revenue - $300,000/FY21-22 and Subsequent Years

Assumptions:

- This legislation establishes that credits given must be in the "best interest of the state" which is defined as, "a determination by the Commissioner of Finance and Administration, the Commissioner of Revenue, and the Commissioner of Economic and Community Development that the qualified development project is a result of the credit

provided…and that the economic benefits to this state resulting from the qualified development project outweigh the anticipated amount of the credit".

- Therefore, any impact on F&E tax revenue is considered foregone revenue.
- According to the Department of Revenue, it is estimated that approximately three taxpayers a year would receive a franchise and excise tax credit equal to $100,000 as a direct result of this legislation; therefore, the total recurring foregone tax revenue is estimated to be $300,000 (3 taxpayers x $100,000). The Fiscal Review Committee staff does not have access to any taxpayer confidential information upon which these estimates are based and, therefore, cannot independently verify their accuracy.
- The legislation requires a taxpayer invests at least $25,000,000 in the qualified development project before the taxpayer can claim the tax credit; therefore, it is estimated that the first year impacted by this legislation will be FY21-22.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner, Executive Director

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