2. Economic Incentives Claimed Under Multiple Programs

State law does not prohibit claiming the same project costs under two or more tax credit programs. As a result, we calculated the state issued tax credits totaling over $134 million related to project costs included in the basis of more than one tax credit program during the 11 years ended June 30, 2011. In addition, if state law was amended to include similar cost containment features as federal law, the state could have saved an additional $68 million in tax credits issued over this time period. State law also does not prohibit newly created job and investment activity from being claimed under two or more economic development programs.

2.1 Potential savings

State law does not contain provisions to prohibit the same project costs from being claimed under more than one program. As a result, companies may claim certain[1] project costs under the Historic Preservation, Low Income Housing, Brownfield Remediation, and the Neighborhood Preservation Tax Credit programs. Currently, the BCS does not attempt to quantify the extent to which this occurs; however, BCS personnel indicated a significant portion of developer costs are claimed under more than one program. This "stacking" of tax credits can be lucrative for developers and additional tax credits are issued while no additional economic activity or state benefit is generated. A developer of a project utilizing Brownfield Remediation, state and federal Historic Preservation, and state and federal Low Income Housing credits could be issued up to $3.27 in federal and state tax credits ($1.11 in federal and $2.16 in state tax credits) for every $1 of certain project costs. Developers may receive up to $2.27 in credits for a project cost included in the state and federal Historic Preservation and the state and federal Low Income Housing programs.

Between fiscal years 2000 and 2011, the state issued tax credits totaling approximately $738 million for 117 projects that received funding from two or more of the tax programs noted above. Based on our analysis of available project data we calculated the state issued more than $134 million in tax credits related to project costs claimed under more than one tax credit program. In addition, developers would have also received federal tax credits related to these project costs under the Historic Preservation and Low Income Housing programs.

In November 2010, the Missouri Tax Credit Review Commission[2] issued a report which recommended the elimination of, or placing restrictions on, the stacking of tax credits. In addition, the legislature has adopted statutory restrictions which prohibit companies from participating in more than one of the following programs: Business Facility, Brownfield Jobs/Investments, Enterprise Zone, Enhanced Enterprise Zone, Missouri Quality Jobs, Rebuilding Communities, and Neighborhood Preservation. The BCS should work with the General Assembly to establish cost containment provisions regarding project costs claimed under multiple tax credit programs.

[1] Companies receive Brownfield Remediation, Historic Preservation, and or Low Income Housing tax credits when rehabilitating qualifying properties. Companies acquire abandoned or underutilized properties, some with environmental hazards such as chemical, asbestos, and or lead paint contamination, which qualify for rehabilitation under the Brownfield Remediation program and the federal and state Historic Preservation programs and also undertake rehabilitation activities that qualify under the federal and state Low Income Housing programs.

[2] A Commission created by the Governor in July 2010 that is composed of 27 business, community and legislative leaders. The Commission was charged with reviewing the state's tax credit programs and making recommendations for greater efficiency and enhanced return on investment.

2.2 Reduction for state historic preservation

State law does not provide cost containment features similar to those in federal law, costing the state approximately $68 million in tax credits issued from fiscal years 2000 through 2011.

To calculate the qualified basis upon which the federal Low Income Housing credit is based, the eligible Low Income Housing basis must be reduced by the amount of the federal Historic Preservation tax credits attributable to the residential portion of the project unless the owner of the rehabilitated property elects to pass the credits to the lessee undertaking the Low Income Housing project. State law does not require similar reductions be made to the state Low Income Housing Tax Credit.

Between fiscal years 2000 and 2011, the state issued tax credits for 78 projects that received funding from both the Historic Preservation and Low Income Housing Tax Credit programs. Based on our analysis of available project data we calculated the state issued $68 million more in tax credits than it would have if developers had been required to reduce the basis for the state Low Income Housing credit by the amount of state Historic Preservation tax credits attributable to the residential portion of the project.

The BCS should work with the General Assembly to establish provisions to require the qualifying basis for the state Low Income Housing tax credit to be reduced by the amount of state Historic Preservation credits issued.

2.3 BUILD and other programs

State law does not prohibit new jobs and investments claimed under the Business Use Incentives for Large-Scale Development (BUILD) Program from also being claimed under other economic development programs administered by the BCS. This results in the state issuing additional tax credits while no additional economic activity or state benefit is generated.

State tax credits issued for job creation and investment activity under the BUILD program may also be claimed in the employment and investment value statistics under other economic programs administered by the BCS. While the Missouri Development Finance Board (MDFB) requires companies to provide detailed employment and investment information for the BUILD projects, the DED does not require this information from companies participating in its programs. As a result, the extent jobs and investments qualified for credits under multiple programs could not be determined. However, we did identify two companies that received BUILD and Business Facility and or Enterprise Zone credits in the same year and for the same location. Credits totaling $2.2 million were issued to these companies.

In addition to the two companies noted above, the MDBF indicated three additional companies participated in the BUILD program and either the Enterprise Zone or Business Facility tax credit programs. The MDFB also reported that 22 of 32 companies participating in the BUILD program participate in other economic development including the Enhanced Enterprise Zone, Missouri Quality Jobs, Development, New Jobs Training, and Retained Jobs Training tax credit programs.

The BCS should work with the General Assembly to establish cost containment provisions regarding job creation and investment activity claimed under both the BUILD and other tax credit programs.

Recommendations

We recommend the BCS work with the General Assembly:

2.1. To establish cost containment provisions regarding project costs claimed under multiple tax credit programs.

2.2. To establish provisions to require the qualifying basis for the state Low Income Housing tax credit to be reduced by the amount of state Historic Preservation credits issued.

2.3. To establish cost containment provisions regarding job creation and investment activity claimed under both the BUILD and other tax credit programs.

Auditee's Response

The BCS did not provide a response to these recommendations.