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Budget Woes Create Uncertain Climate for Missouri's Tax Credit Programs

By Jennifer Hill, Staff Writer, Novogradac & Company LLP

Gov. Jay Nixon said in his fiscal year (FY) 2011 budget summary that Missouri is in a better financial position than most other states. Nevertheless, a 12.7 percent decline in 2010 fiscal year-to-date revenues on top of a record 6.9 percent decline in FY 2009 is forcing Nixon to cut more than \$850 million from this year's budget, and more cuts from this budget and the next may be on the horizon. To make matters worse, the state commissioner's office predicts a more than \$200 million shortfall in revenue collections for next year.

Some state officials are calling the situation a budget crisis, setting the stage for Sen. Jason Crowell's push for greater legislative control and annual oversight of the state's tax credit programs. With the January introduction of Senate Bill 728, Crowell is attempting for the second year in a row to subject nearly all of Missouri's 54 state tax credit programs to the annual appropriations process. A previous attempt in 2009 was unsuccessful. Supporting Crowell's efforts this year are state teachers associations fighting an education budget cut, which Crowell estimates to be an \$88 million reduction.

Crowell calls for a big picture view of the state's budget. "When you deal with tough economic times, everything is on the table when you balance your personal budget," Crowell said, noting this is not the case with the state budget, a large portion of which is not subject to a regular appropriations process.

"To my opponents who say subjecting tax credits to appropriations doesn't work in the real world, I would respectful-

ly say that what doesn't work in the real world is the system we currently have in place," Crowell said. He cites a FY 2010 budget shortfall of \$830 million dollars and points to \$584.7 million in obligated tax credits as money he says could have given the General Assembly, Missouri's state legislature, greater budget flexibility. Further, he says that the return on the state's investment in tax credits is "miniscule."

Crowell wants tax credit programs to be on a playing field equal with other state expenditures, such as education and health care. To receive funding, parties with a stake in the tax credit would be required to explain to the Assembly each year why a project should receive funds. The Assembly then would decide what amount to allocate to the project, from zero to the program's annual cap. Crowell's bill makes an accommodation for multi-year tax credit programs such as the low-income housing tax credit (LIHTC), which is distributed over a 10-year period. If the Assembly allocates funds to a project in year one, that project would receive funds through year 10.

Although the bill is unlikely to pass, having failed in February to achieve enough votes to make it out of committee, the proposal can still create problems for affordable housing professionals who rely on state LIHTCs. "From the investor viewpoint, anything the state does to put up another obstacle makes the investor overlook the project," said Stephen Acree, executive director of the Regional Housing Community Development Alliance (RHCD), a not-for-profit affordable housing developer in St. Louis, Mo.

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Acree is also the president of the Missouri Workforce Housing Association, which advocates on behalf of the state LIHTC. Members of the association include not-for-profits, builders and investors. Acree, along with the association's executive director, Tim Barry, testified before the Assembly in early February.

The association was formed to make the state LIHTC program more efficient. Recently, the group has tried to put a human face on affordable housing and dispel not-in-my-backyard attitudes. Now both of those efforts have been put on hold so the association can focus on preserving the state credit.

"The uncertainty of what would happen in Jefferson City next year would be a killer," said Barry, observing that most LIHTC transactions are at least two years in the making. "National investors would move on to another state that didn't have that uncertainty."

Barry argues that Crowell's argument that the return is miniscule on tax credits is misleading. He says that Crowell's argument that investors are spending 35 cents and getting a dollar back in tax credits doesn't hold up because the credit is distributed over 12 years and if one takes the construction and rent-out periods into account, the value of the state LIHTC is closer to 80 to 85 cents on the dollar.

Subjecting the LIHTC to the annual budget process would be devastating, Acree said. "There would be a strong temptation to try to solve any state budget shortfall by not appropriating the credit," he said, noting that the state is using funds from the American Reinvestment and Recovery Act (Recovery Act) to fund its on-going operations. "When that money is gone they need to look for a way to solve that problem and they might not appropriate [the credits]."

Acree said financing projects is difficult already because of the dramatic drop in federal LIHTC pricing. An additional government roadblock would mean the loss of significant sources of income and hinder revitalization work in neighborhoods where the not-for-profit is beginning to see a turnaround. Another factor, he said, is the number of lost jobs for builders and contractors who wait for tax credit deals to close.

"They're saying that tax credits are taking money out of the budget for nurses and teachers," Acree said. "But could those people actually afford to live in your community without affordable housing?"

After working to ensure that the credit will be protected from legislative appropriations, Acree said addressing state LIHTC pricing, which is far lower than the federal, and creating ways

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Novogradac Journal of Tax Credits Information

Address all correspondence and
editorial submissions to:
Jane Bowar Zastrow / 415.356.8034

Address inquiries regarding
advertising opportunities to:
Emil Bagalso / 415.356.8037

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to increase the value of the credit will be the next item on the association's agenda.

"But first we have to save the credit," he said. "Unfortunately we have to spend a lot of energy on that when we could be spending it on something more productive, like enhancing the value of the credit and making it more beneficial." ❖

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