

SECOND REGULAR SESSION

SENATE BILL NO. 711

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

3188S.02I

AN ACT

To amend chapter 620, RSMo, by adding thereto nine new sections relating to job creation and fiscal accountability.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 620, RSMo, is amended by adding thereto nine new sections, to be known as sections 620.1650, 620.1655, 620.1660, 620.1665, 620.1670, 620.1675, 620.1680, 620.1685, and 620.1690, to read as follows:

620.1650. As used in sections 620.1650 to 620.1690, the following terms shall mean:

(1) "Corporate parent", any person, association, corporation, joint venture, partnership, or other entity, that owns or controls fifty percent or more of a recipient corporation;

(2) "Date of subsidy", the date that a granting body provides the initial monetary value of a development subsidy to a recipient corporation provided, however, that where the subsidy is for the installation of new equipment, such date shall be the date the corporation puts the equipment into service and provided, further, that where the subsidy is for improvements to property, such date shall be the date the improvements are finished, or the date the corporation occupies the property, whichever is earlier;

(3) "Department", the state department of revenue;

(4) "Development subsidy", any direct or indirect expenditure of public funds with a value of at least twenty-five thousand dollars for the purpose of stimulating economic development within the state, including but not limited to, bonds, grants, loans, loan guarantees, enterprise zones, empowerment zones, tax increment financing, grants, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits;

(5) "Full-time job", a job in which an individual is employed by a recipient

corporation for at least thirty-five hours per week;

(6) "Granting body", any agency, board, office, public benefit corporation, or authority of the state or a local government unit that provides a development subsidy;

(7) "Local government unit", an agency, board, commission, office, public benefit corporation, or public authority of a political subdivision of the state;

(8) "Interagency development task force", a working group comprised of the fiscal officers of the state departments of agriculture, economic development, labor and industrial relations, revenue, and transportation and convened by the commissioner of administration or, if the commissioner so chooses, the director of the division of budget and planning or the office of administration;

(9) "New job", a full-time job created as a result of activity supported by a development subsidy, not including jobs of recalled workers, replacement jobs, or jobs that formerly existed in the same industry in the county where the project is located or in any county bordering it;

(10) "Part-time job", a job in which an individual is employed by a recipient corporation for less than thirty-five hours per week;

(11) "Project site", the site of a project for which any development subsidy is provided;

(12) "Property-taxing entity", any state or local entity which levies taxes upon real or personal property;

(13) "Recipient corporation", any person, association, corporation, joint venture, partnership, or other entity that receives a development subsidy;

(14) "Small business", a corporation whose corporate parent, and all subsidiaries thereof, employed fewer than twenty full-time employees or had total gross receipts of less than one million dollars during the calendar year;

(15) "State", an agency, board, commission, office, public benefit corporation, or public benefit authority of the state;

(16) "Subsidy value", the face value of any and all development subsidies provided to a recipient corporation;

(17) "Temporary job", a job in which an individual is hired for a season or for a limited period of time.

620.1655. The interagency development task force shall submit an annual unified economic development report to the legislature no later than three weeks after the opening of each regular legislative session. The report shall present all types of expenditures for economic development during the prior fiscal year, including, but not limited to:

(1) The amount of uncollected state tax revenues resulting from every

corporate tax credit, abatement, exemption, and reduction provided by the state or a local governmental unit including, but not limited to, gross receipts, income, sales, use, raw materials, excise, property, utility, and inventory taxes;

(2) The name of each corporate taxpayer which claimed any tax credit, abatement, exemption, or reduction pursuant to subdivision (1) of this section of any value equal to or greater than five thousand dollars, together with the dollar amount received by each such corporation;

(3) Any tax credit, abatement, exemption, or reduction received by a corporation of less than five thousand dollars each shall not be itemized. The department shall report an aggregate dollar amount of such expenditures and the number of companies so aggregated for each tax expenditure;

(4) All state appropriated expenditures for economic development, including line-item budgets for every state-funded entity concerned with economic development, including, but not limited to, the department of economic development, the department of labor and industrial relations, and the department of transportation.

620.1660. 1. Each property-taxing entity shall annually submit a report to the department regarding any real property in the entity's jurisdiction that has received a property tax abatement or reduction during the fiscal year. The report shall contain information including, but not limited to: the name of the property owner; the address of the property; the start and end dates of the property tax reduction or abatement; the schedule of the tax reduction; each tax abatement, reduction and exemption for the property; and the amount of property tax revenue not paid to the taxing entity as a result of the reduction or abatement.

2. Each property-taxing entity shall also annually submit a report to the department setting forth the total payments in lieu of taxes collected and deposited into a special allocation fund as part of a tax increment financing agreement.

3. Each municipality of the state that collects sales and other economic activity taxes shall annually submit to the department a report on the dollar amount of such taxes, penalties, and interest that have been deposited into a special allocation fund for purposes of tax increment financing.

4. The reports required pursuant to subsections 1, 2, and 3 of this section shall be prepared on two forms prepared by the interagency development task force, and shall be submitted to the department by the taxing entity no later than three months after the end of the fiscal year.

5. The department shall annually compile and publish all of the data contained in the reports required pursuant to subsections 1, 2, and 3 of this section

in both written and electronic form, including the department's world wide web sites and publish a ranking of all development subsidies according to amount of subsidy, recipient of subsidy, and number of new jobs created.

6. If the reports required pursuant to subsections 1, 2, and 3 of this section are not filed by the last day of the third month after the end of the fiscal year, then the department shall issue a warning to the local taxing entity. If the department has still not received the reports at the end of five months after the end of the fiscal year, then the granting body that has failed to report may not award any new development subsidies until the report has been filed.

620.1665. 1. Each granting body, together with the applicant for a development subsidy, shall complete an application for the subsidy in the form of an affidavit on a form prepared by the interagency development task force. The information required on the application shall include the following:

- (1) An application tracking number for the granting agency and the project;
- (2) The name, street and mailing address, and phone number of the chief officer of the granting body;
- (3) The name, street and mailing address, and phone number of the chief officer of the applicant's corporate parent;
- (4) The name, street and mailing address, and phone number of the chief officer of the applicant;
- (5) The street address of the project site;
- (6) The three-digit North American Industry Classification System number or numbers characterizing the economic development project;
- (7) The total number of individuals employed by the applicant at the project site on the date of the application, broken down by full-time, part-time, and temporary positions;
- (8) The total number of individuals employed in the state by the applicant's corporate parent, and all subsidiaries thereof, as of December thirty-first of the prior fiscal year, broken down by full-time, part-time, and temporary positions;
- (9) The development subsidy or subsidies being applied for with the granting body, and the value of such subsidy or subsidies;
- (10) The number of new jobs to be created by the applicant at the project site, broken down by full-time, part-time, and temporary positions;
- (11) A list of other community and economic benefits to result from the project, appropriately quantified, that are consistent with the intended outcomes for which the subsidy was enacted in statute;
- (12) A list of all development subsidies that the applicant has previously received for the project, is now requesting, and the name of any other granting

body from which such subsidies are sought;

(13) A list of all other public investments made or to be made by the state or units of local government to support infrastructure or other needs generated by the project for which the development subsidy is being sought;

(14) A statement as to whether the development subsidy may reduce employment at any other site controlled by the applicant or its corporate parent, within or without the state, resulting from automation, merger, acquisition, corporate restructuring, or other business activity;

(15) A statement as to whether or not the project involves the relocation of work from another address, and if so, the number of jobs to be relocated and the address from which they are to be relocated; and

(16) A certification by the chief officer of the applicant as to the accuracy of the application.

2. If the granting body shall approve the application, it shall send a copy to the department within fifteen days of such approval. If the application is not approved, the granting body shall retain the application in its records.

620.1670. 1. Each granting body and recipient corporation shall file a progress report in the form of an affidavit with the department for each project for which a development subsidy has been granted, no later than thirty days after the anniversary of the date of the subsidy. The report shall include the following information:

(1) The application tracking number;

(2) The name, street and mailing addresses, phone number, and chief officer of the granting body;

(3) The name, street and mailing addresses, phone number, and chief officer of the recipient corporation;

(4) A summary of the number of net new jobs created, broken down by full-time, part-time, and temporary positions;

(5) The comparison of the total employment in the state by the recipient's corporate parent on the date of the application and the date of the report, broken down by full-time, part-time, and temporary positions;

(6) A statement as to whether the use of the development subsidy during the previous fiscal year has reduced employment at any other site controlled by the recipient corporation or its corporate parent, within or without the state, as a result of automation, merger, acquisition, corporate restructuring, or other business activity;

(7) A summary of the other community and economic benefits resulting from the project, consistent with those identified in the application; and

(8) A signed certification by the chief officer of the recipient corporation as to the accuracy of the progress report.

2. Granting bodies and recipient corporations shall file annual progress reports for the duration of the subsidy, or not less than five years, whichever period is greater.

3. The department shall compile and publish all data from the progress reports in both written and electronic form, including the department's world wide web site.

4. The granting body and the department shall have access at all reasonable times to the project site and the records of the recipient corporation in order to monitor the project and to prepare progress reports.

5. A recipient corporation that fails to provide the granting body with the information or access required pursuant to subsections 1 to 4 of this section shall be subject to a fine of not less than five hundred dollars per day to commence within ten working days after the reporting deadline set by the granting body, and of not less than one thousand dollars per day to commence twenty days after such deadline. Two percent of any such fines shall be remitted to the state treasurer and credited to each of the departments equally for the purpose of administering the provisions of sections 620.1650 to 620.1690.

620.1675. A granting body shall not award a development subsidy if the cost per new job is greater than thirty-five thousand dollars. Such cost shall be determined by dividing the amount of the subsidy by the number of full-time new jobs required under the application approved by the granting body.

620.1680. 1. A recipient corporation shall fulfill its job creation requirements for the project site within two years of the date of subsidy.

2. The corporate parent of a recipient corporation must maintain at least ninety percent of its employment in the state as long as the development subsidy is in effect, or not less than five years, whichever is longer.

3. If the requirements pursuant to subsections 1 and 2 of this section are not fulfilled, the granting body shall recapture the development subsidy from the recipient corporation as follows:

(1) Upon a failure by the recipient corporation to create the number of jobs identified in the application, the amount recaptured shall be based on the pro rata amount by which the unfulfilled jobs bear to the total amount of the development subsidy;

(2) Upon a failure of the corporate parent to maintain ninety percent of its employment in the state, the rate of recapture shall equal twice the percentage by which such employment is less than ninety percent.

4. The granting body shall provide notice to the recipient corporation of its intent to recapture the development subsidy and state the reasons and amount to be recaptured. The recipient corporation shall remit to the governing body such amount within sixty calendar days of the date of such notice.

5. If a recipient corporation fails to meet the requirements of subsections 1 and 2 of this section in three consecutive calendar years, the granting body shall declare the subsidy null and void, and shall so notify the department and the recipient corporation. The recipient corporation shall repay to the granting body all remaining value of the development subsidy it has not previously repaid within one hundred eighty calendar days of the date of the notice of such default.

620.1685. If a granting body fails to enforce any provision of sections 620.1650 to 620.1690, any individual who paid personal income taxes to the state in the calendar year prior to the year in dispute, or any organization representing such taxpayers, shall be entitled to bring a civil action in state court to compel enforcement pursuant to this section. The court shall award reasonable attorney's fees and costs to such prevailing taxpayer or organization.

620.1690. All records required to be prepared or maintained pursuant to sections 620.1650 to 620.1690, including, but not limited to, applications, progress reports, recapture notices, and any other records or proceedings relating thereto, shall be subject to disclosure pursuant to the provisions of chapter 610, RSMo.

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