

Sec. X. 32 V.S.A. § 5930b is added to read:

§ 5930b. VERMONT EMPLOYMENT GROWTH INCENTIVE; TAX ADMINISTRATION

(a) Terms used in this section shall have the same meaning as in 10 V.S.A. § 39.

(b) Earning an incentive; installment payments.

(1) A business with an approved application earns the incentive specified for an award year if, within the applicable time period provided in this section, the business:

(A) maintains or exceeds its base payroll and base employment;

(B) meets or exceeds the payroll performance requirement specified for the award year;

and

(C) meets or exceeds the jobs performance requirement specified for the award year, or the capital investment performance requirement specified for the award year, or both.

(2) A business that earns an incentive specified for an award year is eligible to receive an installment payment ~~and any applicable property tax stabilization~~ for the year in which it earns the incentive and for each of the next four years in which the business:

(A) maintains or exceeds its base payroll and base employment;

(B) maintains or exceeds the payroll performance requirement specified for the award year; and

(C) if the business earns an incentive by meeting or exceeding the jobs performance target specified for the award year, maintains or exceeds the jobs performance requirement specified for the award year.

(c) Award year one.

(1) For award year one, a business has from the date it commences its proposed economic activity through December 31 of that year, plus two additional years, to meet the performance requirements specified for award year one.

(2) A business that does not meet the performance requirements specified for award year one within this period becomes ineligible to earn incentives for the award year and for all remaining award years in the award period.

(d) Award years two and three.

(1) For award year two and award year three, beginning on January 1 of the award year, a business has three years to meet the performance requirements specified for the award year.

(2) A business that does not meet the performance requirements specified for award year two or for award year three within three years becomes ineligible to earn incentives for the award year and for all remaining award years in the award period.

(e) Extending the earning period in award years one and two. Notwithstanding subsections (c) and (d) of this section:

(1) Upon request, the Council may extend the period to earn an incentive for award year one or award year two if it determines:

(A) a business did not earn the incentive for the award year due to facts or circumstances beyond its control; and

(B) there is a reasonable likelihood the business will earn the incentive within the extended period.

(2) The Council may extend the period to earn an incentive:

(A) for award year one, by two years, reviewed annually; or

(B) for award year two, by one year.

(3) If the Council extends the period to earn an incentive, it shall recalculate the value of the incentive using the cost-benefit model and shall adjust the amount of the incentive as is necessary to account for the extension.

(f) Award year four.

(1) Beginning on January 1 of award year four, a business that remains eligible to earn incentives has two years to meet the performance requirements specified for award year four.

(2) A business that does not meet the performance requirements specified for award year four within two years becomes ineligible to earn incentives for award year four and award year five.

(g) Award year five.

(1) Beginning on January 1 of award year five, a business that remains eligible to earn incentives has one year to meet the performance requirements specified for award year five.

(2) A business that does not meet the performance requirements specified for award year five by the end of that award year becomes ineligible to earn the incentive specified for that award year.

(h) Carrying forward growth that exceeds targets. If a business exceeds one or more of the payroll performance requirement, the jobs performance requirement, or the capital investment performance requirement specified for an award year, the business may apply the excess payroll, excess jobs, and excess capital investment toward the performance requirement specified for a future award year, provided that the business maintains the excess payroll, excess jobs, or excess capital investment into the future award year.

(i) On or before April 30 following each year of the utilization period, a business with an approved application shall submit an incentive to the Department of Taxes.

(j) A business shall include the information the Department requires, including the information required in 32 V.S.A. § 5842 and other documentation concerning payroll, jobs, and capital investment necessary to determine whether the business earned the incentive specified for an award year and any installment payment ~~or property tax stabilization, or both,~~ for which the business is eligible.

(k) The Department may consider an incomplete claim to be timely filed if the business files a complete claim within the additional time allowed by the Department in its discretion.

(l) Upon finalizing its review of a complete claim, the Department shall:

(1) notify the business ~~and the Council, the Treasurer, and any municipality with which the business has a property tax stabilization agreement~~ whether the business is entitled to an installment payment ~~or property tax stabilization~~ for the applicable year; and

(2) make an installment payment and confirm the business receives tax stabilization to which the business is entitled.

(m) Recapture.

(1) The Department of Taxes may recapture the value of one or more installment payments ~~and property tax stabilization~~ a business has claimed, with interest, if:

(A) the business fails to file a claim as required in ~~subsection (i) of this section;~~ or

(B) during the utilization period, the business experiences:

(i) a 90 percent or greater reduction from base employment; or

(ii) if it had no jobs at the time of application, a 90 percent or greater reduction from the sum of its job performance requirements.

(2) If the Department determines that a business is subject to recapture under subdivision (1) of this subsection, the business becomes ineligible to earn or claim an additional incentive or

installment payment, and the business's property becomes ineligible for property tax stabilization, for the remainder of the utilization period.

(3) Notwithstanding any other statute of limitations, the Department may commence a proceeding to recapture amounts under subdivision (1) of this subsection as follows:

(A) under subdivision (1)(A) of this subsection, no later than three years from the last day of the utilization period; and

(B) under subdivision (1)(B) of this subsection, no later than three years from date the business experiences the reduction from base employment, or three years from the last day of the utilization period, whichever occurs first.

(n) Reduction; recapture. If a business fails to make capital investments that equal or exceed the sum of its capital investment performance requirements by the end of the award period:

(1) The Department shall:

(A) calculate a reduced incentive by multiplying the combined value of the business's award period incentives by the same proportion that the business's total actual capital investments bear to the sum of its capital investment performance requirements; and

(B) reduce the value of any remaining installment payments and tax stabilization for which the business is eligible by the same proportion.

(2) If the value of the installment payments and tax stabilization the business has already received exceeds the value of the reduced incentive, then:

(A) the business becomes ineligible to claim any additional installment payments for the award period and the business's property becomes ineligible for property tax stabilization under 32 V.S.A. § 5404a for the award period; and

(B) the Department shall recapture the amount by which the value of the installment payments and tax stabilization the business has already received exceeds the value of the reduced incentive.

(o) Upon notification by the Council of a businesses' s successful completion of workforce training pursuant to 10 V.S.A. § 36, the Department of Taxes shall:

(1) disburse to the business a payment in an amount equal to 25 percent of the cost for training expenses pursuant to 10 V.S.A. § 36(b);

(2) disburse to the Agency of Commerce and Community Development a payment in an amount equal to 25 percent of the cost for training expenses pursuant to 10 V.S.A. § 36(b); and

(3) disburse the remaining value of the incentive in annual installments pursuant to 10 V.S.A. § 37.

(p) The Department shall use measures to protect proprietary financial information in accordance with 10 V.S.A. § 38.

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10 V.S.A. 39(7)(E) "Qualified Job"

For purposes of an application submitted to the Council, when the position is added to base employment, the business's total employment exceeds its average annual employment during the two preceding years, unless the Council determines that the business is establishing a significantly different, new line of business and creating new jobs in the new line of business that were not part of the business prior to filing its application.