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S.138

Senator Mullin moves that the bill be amended as follows:

First: By adding Secs. 71–74 to read:

Sec. 71. 32 V.S.A. § 5930a(c)(2) is amended to read:

(2) The new jobs should make a net positive contribution to employment ~~in the area, and meet or exceed the prevailing compensation level including wages and benefits, for the particular employment sector~~ consistent with the applicable wage threshold for the labor market area. The new jobs should offer benefits and opportunities for advancement and professional growth consistent with the employment sector.

Sec. 72. 32 V.S.A. § 5930b is amended to read:

§ 5930b. VERMONT EMPLOYMENT GROWTH INCENTIVE

(a) Definitions. As used in this section:

* * *

(24) “Wage threshold” means the minimum annualized Vermont gross wages and salaries paid, as determined by the Council, but not less than:

(A) 60 percent above the minimum wage at the time of application;
~~in order for a new job to be a qualifying job under this section; or~~

(B) 40 percent above the State minimum wage at the time of application for a businesses located in a labor market area of this State in

1 which the unemployment rate is greater than the average unemployment rate
2 for the State.

3 (25) “Labor market area” means a labor market area as designated by
4 the Vermont Department of Labor.

5 (b) Authorization process.

6 (1) A business may apply to the Vermont Economic Progress Council
7 for approval of a performance-based employment growth incentive to be paid
8 out of the business’s withholding account upon approval by the Department of
9 Taxes pursuant to the conditions set forth in this section. Businesses shall not
10 be permitted to deduct approved incentives from withholding liability
11 payments otherwise due. In addition to any other information that the Council
12 may require in order to fulfill its obligations under section 5930a of this title,
13 an employment growth incentive application shall include all the following
14 information:

15 (A) application base number of jobs;

16 (B) total jobs at time of application;

17 (C) application base payroll;

18 (D) total payroll at time of application;

19 (E) jobs target for each year in the award period;

20 (F) payroll target for each year in the award period;

21 (G) capital investment target for each year in the award period; and

1 (H) a statement signed by the president or chief executive officer or
2 equivalent acknowledging that to the extent the applicant fails to meet the
3 minimum capital investment by the end of the award period, any incentives
4 remaining to be earned shall be limited, and any incentives taken shall be
5 subject to complete or partial reversal, pursuant to subdivisions (c)(10) and
6 (11) of this section.

7 (2) The Council shall review each application in accordance with
8 section 5930a of this title, except that the Council may provide for an initial
9 approval pursuant to the conditions set forth in subsection 5930a(c), followed
10 by a final approval at a later date, before December 31 of the calendar year in
11 which the economic activity commences.

12 (3) Except as provided in subdivision (5) of this subsection, the value of
13 the incentives will be dependent upon the net fiscal benefit resulting from
14 projected qualifying payroll and qualifying capital investment. An incentive
15 ratio shall be applied to the net fiscal benefit generated by the cost-benefit
16 model in order to determine the maximum award the Council may authorize
17 for each application it approves. The Council may establish a threshold for
18 wages in excess of, but not less than, the wage threshold, as defined in
19 subsection (a) of this section for individual applications the Council wishes to
20 approve. The Council shall calculate an incentive percentage for each
21 approved application as follows:

1 Authorized award amount ÷ the five-year sum of all payroll targets

2 (4) An approval shall specify: the application base jobs at the time of the
3 application; total jobs at time of application; the application base payroll; total
4 payroll at time of application; the incentive percentage; the wage threshold; the
5 payroll thresholds; a job target for each year of the award period; a payroll
6 target for each year of the award period; a capital investment target for each
7 year of the award period and description sufficient for application of
8 subdivisions (c)(10) and (11) of this section of the nature of qualifying capital
9 investment over the award period upon which approval shall be conditioned;
10 and the amount of the total award. The Council shall provide a copy of each
11 approval to the Department of Taxes along with a copy of the application
12 submitted by that applicant.

13 (5)(A) Notwithstanding subdivision (3) of this subsection, the Council
14 may authorize incentives in excess of net fiscal benefit multiplied by the
15 incentive ratio ~~not to exceed an annual authorization established by law for~~
16 awards to businesses located in a labor market area in which the
17 unemployment rate is greater than the average unemployment rate for the State
18 or in which the average annual wage is below the average annual wage for the
19 State.

20 (B)(i) Except as provided in subdivision (5)(B)(ii) of this subsection,
21 the total amount of employment growth incentives the Vermont Economic

1 Progress Council is authorized to approve under subdivision (5)(A) of this
2 subsection shall not exceed \$1,000,000.00 from the General Fund.

3 (ii) The Council shall have the authority to exceed the cap
4 imposed in subdivision (5)(B)(i) of this subsection upon application to and
5 approval by the Emergency Board.

6 (c) Claiming an employment growth incentive.

7 * * *

8 (6)(A) A business whose application is approved and, in the first,
9 second, or third year of the award period, fails to meet or exceed its payroll
10 target and one out of two of its jobs and capital investment targets may not
11 claim incentives in that year. To the extent such business reaches its first,
12 second, or third year award period targets within the succeeding two calendar
13 year reporting periods immediately succeeding year one, two, or three of the
14 award period, or within the extended period if an extension is granted under
15 subdivision (B) of this subdivision (6), whichever is applicable, such business
16 may claim incentives in five-year installments as provided in subdivisions (1)
17 through (4) of this subsection. A business which fails to meet or exceed its
18 payroll target and one of its two jobs and capital investment targets within this
19 time frame shall forfeit all authority under this section to earn and claim
20 incentives for award period year one, two, or three, as applicable, and any
21 future award period years. The Department of Taxes shall notify the Vermont

1 Economic Progress Council that the first, second, or third year award period
2 targets have not been met within the prescribed period, and the Council shall
3 rescind authority for the business to earn incentives for the activity in year one,
4 two, or three, as applicable, and any future award period years.

5 (B)(i) Notwithstanding subdivision (6)(A) of this subsection, if a
6 business determines that it may not reach its first or second year award period
7 targets within the succeeding two calendar year reporting periods due to facts
8 or circumstances beyond its control, the business may request that the Council
9 extend the period to meet the targets for another two reporting periods,
10 reviewed annually, for award year one, and one reporting period for award
11 year two.

12 (ii) The Council may grant an extension pursuant to this
13 subdivision (B) if it determines that the business failed to meets its targets due
14 to facts or circumstances beyond the control of the business and that there is a
15 reasonable likelihood the business will meet the award period targets within
16 the extension period.

17 (iii) If the Council grants an extension pursuant to this subdivision
18 (B), the Council shall re-calculate the value of the incentive using the cost-
19 benefit model and adjust the amount of the award as is necessary to account for
20 the extension of the award period.

21 * * *

1 (h) Enhanced training incentive. Notwithstanding any provision of law to
2 the contrary, the Council may award an enhanced training incentive as follows:

3 (1) A business whose incentive application is approved may elect to
4 claim an enhanced training incentive at any time during the award period by:

5 (A) notifying the Council of its intent to pursue an enhanced training
6 incentive and dedicate its incentive funds to training through the Vermont
7 Training Program or a Workforce Education and Training Fund program; and

8 (B) applying for a grant from the Vermont Training Program or the
9 Workforce Education and Training Fund to perform training for new
10 employees who hold qualifying jobs.

11 (2) If the business successfully completes new employee training
12 pursuant to the terms of its training grant and uses incentive funds to cover a
13 25 percent share of the training costs, the Agency of Commerce and
14 Community Development, or the Department of Labor, as applicable, shall
15 disburse grant funds for on-the-job training of not more than 75 percent of
16 wages for each employee in training, or not more than 75 percent of trainer
17 expense upon successful completion of training hours.

18 (3) The Department of Taxes shall reimburse the Agency or the
19 Department for 25 percent of the wages or trainer expense incurred by the
20 Vermont Training Program or the Workforce Education and Training Fund
21 pursuant to subdivision (2) of this subsection.

1 (4) If the business successfully completes its training and meets or
2 exceeds its payroll target and either its jobs target or capital investment target,
3 the Council shall approve the enhanced training incentive and notify the
4 Department of Taxes.

5 (5) Upon notification by the Council, the Department of Taxes shall
6 disburse to the business a payment in an amount equal to the business's cost
7 for training and the cost of the reimbursement to the Vermont Training
8 Program or the Workforce Education and Training Fund for training expenses
9 pursuant to subdivision (3) of this subsection. The Department shall disburse
10 the remaining value of the incentive award in annual installments pursuant to
11 subdivision (c)(2) of this section.

12 (6)(A) If, during the utilization period for the incentive paid pursuant to
13 this subsection (h), the business fails to maintain the qualifying jobs or
14 qualifying payroll established in the award year, or does not reestablish
15 qualifying jobs or qualifying payroll to 100 percent of the award year level, the
16 Department of Taxes shall recapture the enhanced incentive pursuant to
17 subsection (d) of this section.

18 (B) The amount of recapture shall equal the sum of the installments
19 that the Department would have disbursed if it had paid the incentive in
20 five-year installments pursuant to subdivision (c)(2) of this section for the

1 years during the utilization period that the qualifying jobs or qualifying payroll
2 were not maintained.

3 (i) Overall gross cap on total employment growth incentive and education
4 tax incentive authorizations.

5 (1) For any calendar year, the total amount of employment growth
6 incentives the Vermont Economic Progress Council is authorized to approve
7 under this section and property tax stabilizations under 32 V.S.A. § 5404a(a)
8 shall not exceed \$10,000,000.00 from the General Fund and Education Fund
9 combined each year.

10 (2) The Council shall have the authority to exceed the cap imposed in
11 subdivision (1) of this subsection upon application to and approval by the
12 Emergency Board.

13 Sec. 73. 2006 Acts and Resolves No. 184, Sec. 11 is amended to read:

14 Sec. 11. ~~VEGI; ANNUAL CALENDAR YEAR CAPS~~

15 ~~(a) Net negative awards cap. Notwithstanding any other provision of law,~~
16 ~~in any calendar year, the annual authorization for the total net fiscal cost of~~
17 ~~Vermont employment growth incentives that the Vermont economic progress~~
18 ~~council or the economic incentive review board may approve under 32 V.S.A.~~
19 ~~§ 5930b(b)(5) shall not exceed \$1,000,000.00 from the general fund.~~

20 ~~(b) Restrictions to labor market area. Employment growth incentives within~~
21 ~~the annual authorization amount in subsection (a) of this section shall be~~

1 ~~granted solely for awards to businesses located in a labor market area of this~~
2 ~~state in which the rate of unemployment is greater than the average for the~~
3 ~~state or in which the average annual wage is below the average annual wage~~
4 ~~for the state. For the purposes of this section, a “labor market area” shall be as~~
5 ~~determined by the department of labor.~~

6 ~~(c) Overall gross cap on total employment growth incentive and education~~
7 ~~tax incentive authorizations. For any calendar year, the total amount of~~
8 ~~employment growth incentives the Vermont economic progress council or the~~
9 ~~economic incentive review board is authorized to approve under 32 V.S.A.~~
10 ~~§ 5930b and property tax stabilizations and allocations under 32 V.S.A.~~
11 ~~§ 5404a(a) and (e) shall not exceed \$10,000,000.00 from the general fund and~~
12 ~~education fund combined each year. This maximum annual amount may be~~
13 ~~exceeded by the Vermont economic progress council upon application to and~~
14 ~~approval by the Emergency Board. [Repealed.]~~

15 Sec. 74. 10 V.S.A. § 531(d) is amended to read:

16 (d) In order to avoid duplication of programs or services and to provide the
17 greatest return on investment from training provided under this section, the
18 Secretary of Commerce and Community Development shall:

19 (1) consult with the Commissioner of Labor regarding whether the
20 grantee has accessed, or is eligible to access, other workforce education and
21 training resources;

1 (2) disburse grant funds only for training hours that have been
2 successfully completed by employees; provided that, except for an award
3 under an enhanced training incentive as provided in 32 V.S.A. § 5930b(h), a
4 grant for on-the-job training shall either provide not more than 50 percent of
5 wages for each employee in training, or not more than 50 percent of trainer
6 expense, but not both, and further provided that training shall be performed in
7 accordance with a training plan that defines the subject of the training, the
8 number of training hours, and how the effectiveness of the training will be
9 evaluated; and

10 (3) use funds under this section only to supplement training efforts of
11 employers and not to replace or supplant training efforts of employers.

12 Second: By striking out Sec. 100 in its entirety and inserting in lieu thereof
13 a new Sec. 100 to read:

14 Sec. 100. EFFECTIVE DATES

15 (a) Except as otherwise provided in subsection (b) of this section, this act
16 shall take effect on July 1, 2015.

17 (b) Notwithstanding 1 V.S.A. § 214, other than the amendment to
18 32 V.S.A. § 5930b(c)(6)(B) (extension of time to meet first or second year
19 award targets), Secs. 71–74 (Vermont Employment Growth Incentive
20 provisions) shall take effect retroactively as of January 1, 2015.