

1 H.10
2 Introduced by Representatives Kornheiser of Brattleboro and Marcotte of
3 Coventry
4 Referred to Committee on
5 Date:
6 Subject: Commerce and trade; economic development
7 Statement of purpose of bill as introduced: This bill proposes to amend the
8 Vermont Employment Growth Incentive Program.

9 An act relating to amending the Vermont Employment Growth Incentive
10 Program

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 32 V.S.A. chapter 105 is amended to read:

13 **CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE**
14 **PROGRAM**

15 Subchapter 1. Vermont Economic Progress Council

16 **§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL**

17 (a) Creation. The Vermont Economic Progress Council is created to
18 exercise the authority and perform the duties assigned to it, including its
19 authority and duties relating to:

1 (1) the Vermont Employment Growth Incentive Program pursuant to
2 subchapter 2 of this chapter; and
3 (2) tax increment financing districts pursuant to 24 V.S.A. chapter 53,
4 subchapter 5 and section 5404a of this title.

5 (b) Membership.

6 (1) The Council shall have ~~11~~ nine voting members:

7 (A) ~~nine who are residents of the State appointed by the Governor~~
8 ~~with the advice and consent of the Senate and~~ who are knowledgeable and
9 experienced in the subjects of community development and planning,
10 education funding requirements, economic development, State fiscal affairs,
11 property taxation, or entrepreneurial ventures and represent diverse
12 geographical areas of the State and municipalities of various sizes; ~~appointed~~
13 as follows:

14 (A) five members appointed by the Governor with the advice and
15 consent of the Senate;

16 (B) two members appointed by the Speaker of the House; and

17 (C) two members appointed by the Senate Committee on Committees

18 (B) ~~one member of the Vermont House of Representatives appointed~~
19 ~~by the Speaker of the House; and~~

20 (C) ~~one member of the Vermont Senate appointed by the Senate~~
21 Committee on Committees.

(2)(A) The Council shall have two regional members from each region of the State, one appointed by the regional development corporation of the region and one appointed by the regional planning commission of the region.

7 * * *

8 (e) Operation.

(1) The Governor shall appoint a chair from the Council's members.

10 (2)(A) The Council shall receive administrative support from the

11 Agency of Commerce and Community Development Department of Financial
12 Regulation and the Department of Taxes.

13 (B) The Council shall receive legal counsel exclusively from the
14 Office of the Attorney General.

15 * * *

16 § 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES;

17 ELIGIBLE APPLICANT

18 (a) Purpose. The purpose of the Vermont Employment Growth Incentive
19 Program is to generate net new revenue to the State by encouraging rewarding
20 a business ~~to add~~ for adding new payroll, create new jobs, and ~~make~~ new

1 capital investments it otherwise would not have undertaken without the
2 incentive and sharing a portion of the revenue with the business.

3 (b) Form of incentives; enhanced incentives.

4 ~~(1) The Vermont Economic Progress Council may approve an incentive~~
5 ~~under this subchapter in the form of a direct cash payment in annual~~
6 ~~installments.~~

7 ~~(2) The Council may approve the following enhanced incentives:~~

8 ~~(A) an enhanced incentive for a business in a labor market area with~~
9 ~~higher than average unemployment or lower than average wages pursuant to~~
10 ~~section 3334 of this title; and~~

11 ~~(B) an enhanced incentive for an environmental technology business~~
12 ~~pursuant to section 3335 of this title.~~

13 ~~(C) [Repealed.]~~

14 (e) Eligible applicant.

15 (1) Only a business may apply for an incentive pursuant to this
16 subchapter.

17 (2) For purposes of the Program, the Council shall treat a business and
18 its legal predecessor or successor in interest as the same entity.

19 * * *

20 § 3332. APPLICATION; APPROVAL CRITERIA

21 (a) Application.

1 (1) A business may apply for an incentive in one or more years of an
2 award period by submitting an application to the Council in the format the
3 Council specifies for that purpose.

4 (2) For each award year the business applies for an incentive, the
5 business shall:

6 (A) specify a payroll performance requirement;
7 (B) specify a jobs performance requirement or a capital investment
8 performance requirement, or both; and
9 (C) provide any other information the Council requires to evaluate
10 the application under this subchapter.

11 (b) Mandatory criteria. The Council shall not approve an application
12 unless it finds:

13 (1) ~~Except as otherwise provided for an enhanced incentive for a~~
14 ~~business in a qualifying labor market area under section 3334 of this title, the~~
15 ~~The~~ new revenue the proposed activity would generate to the State would
16 exceed the costs of the activity to the State.

17 (2) The host municipality welcomes the new business.

18 (3) Pursuant to a self-certification or other documentation the Council
19 requires by rule or procedure, the business attests to the best of its knowledge:

20 (A) the business is not a named party to an administrative order,
21 consent decree, or judicial order issued by the State or a subdivision of the

1 State, or if a named party, that the business is in compliance with the terms of
2 such an order or decree;

3 (B) the business complies with applicable State laws and rules; and
4 (C) the proposed economic activity would conform to applicable
5 town and regional plans and with applicable State laws and rules.

6 (4) If the business proposes to expand within a limited local market, an
7 incentive would not give the business an unfair competitive advantage over
8 other Vermont businesses in the same or similar line of business and in the
9 same limited local market.

10 (5) But The business attests that, but for the incentive, the proposed
11 economic activity:

12 (A) would not occur; or
13 (B) would occur in a significantly different manner that is
14 significantly less desirable to the State.

15 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

16 ~~Except as otherwise provided for an enhanced incentive for a business in a~~
17 ~~qualifying labor market area under section 3334 of this title or an enhanced~~
18 ~~incentive for an environmental technology business under section 3335 of this~~
19 ~~title, the~~

20 The Council shall calculate the value of an incentive for an award year as
21 follows:

1 (1) Calculate new revenue growth. To calculate new revenue growth,
2 the Council shall use the cost-benefit model created pursuant to section 3326
3 of this title to determine the amount by which the new revenue generated by
4 the proposed economic activity to the State exceeds the costs of the activity to
5 the State.

6 (2) Calculate the business's potential share of new revenue growth.

7 Except as otherwise provided for an environmental technology business in
8 section 3335 of this title, to To calculate the business's potential share of new
9 revenue growth, the Council shall multiply the new revenue growth determined
10 under subdivision (1) of this subsection by 80 percent.

11 * * *

12 § 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING
13 ~~LABOR MARKET AREA~~

14 (a) The Council may increase the value of an incentive for a business that is
15 located in a labor market area in which:

16 (1) the average annual unemployment rate is greater than the average
17 annual unemployment rate for the State; or

18 (2) the average annual wage is less than the average annual wage for the
19 State.

(b) In each calendar year, the amount by which the Council may increase the value of all incentives pursuant to this section is:

1 (1) \$1,500,000.00 for one or more initial approvals; and

2 (2) \$1,000,000.00 for one or more final approvals.

3 (c) ~~The Council may increase the cap imposed in subdivision (b)(2) of this~~
4 ~~section by not more than \$500,000.00 upon application by the Governor to,~~
5 ~~and approval of, the Joint Fiscal Committee.~~

6 (d) ~~In evaluating the Governor's request, the Committee shall consider the~~
7 ~~economic and fiscal condition of the State, including recent revenue forecasts~~
8 ~~and budget projections.~~

9 (e) ~~The Council shall provide the Committee with testimony,~~
10 ~~documentation, company specific data, and any other information the~~
11 ~~Committee requests to demonstrate that increasing the cap will create an~~
12 ~~opportunity for return on investment to the State.~~

13 (f) ~~The purpose of the enhanced incentive for a business in a qualifying~~
14 ~~labor market area is to increase job growth in economically disadvantaged~~
15 ~~regions of the State, as provided in subsection (a) of this section. [Repealed.]~~

16 § 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL

17 TECHNOLOGY BUSINESS

18 (a) ~~As used in this section, an "environmental technology business" means a~~
19 ~~business that:~~

20 (1) ~~is subject to income taxation in Vermont; and~~

1 (2) seeks an incentive for economic activity in Vermont that the
2 Secretary of Commerce and Community Development certifies is primarily
3 research, design, engineering, development, or manufacturing related to one or
4 more of the following:

5 (A) waste management, including waste collection, treatment,
6 disposal, reduction, recycling, and remediation;

7 (B) natural resource protection and management, including water and
8 wastewater purification and treatment, air pollution control and prevention or
9 remediation, soil and groundwater protection or remediation, and hazardous
10 waste control or remediation;

11 (C) energy efficiency or conservation;

12 (D) clean energy, including solar, wind, wave, hydro, geothermal,
13 hydrogen, fuel cells, waste to energy, or biomass.

14 (b) The Council shall consider and administer an application from an
15 environmental technology business pursuant to the provisions of this
16 subchapter, except that:

17 (1) the business's potential share of new revenue growth shall be 90
18 percent; and

19 (2) to calculate qualifying payroll, the Council shall:

20 (A) determine the background growth rate in payroll for the
21 applicable business sector in the award year;

1 (B) multiply the business's full-time payroll for the award year by 20
2 percent of the background growth rate; and
3 (C) subtract the product from the payroll performance requirement for
4 the award year.

5 (c) The purpose of the enhanced incentive for an environmental technology
6 business is to promote the growth of businesses in Vermont that both create
7 and sustain high quality jobs and improve the natural environment. [Repealed.]

* * *

11 (a) The Vermont Economic Progress Council and the Department of Taxes
12 shall use measures to protect proprietary financial return information;
13 including reporting information in an aggregate form of a business, as defined
14 in section 3102 of this title, consistent with this section.

15 (b)(1) Information and materials submitted by a business concerning its
16 income taxes and other confidential financial Return information shall not be is
17 not subject to public disclosure under the State's public records law in 1
18 V.S.A. chapter 5, but shall be available.

19 (2) The Council shall make available all the information that a business
20 submits to the Council in the course of its application to and participation in
21 the Program, including return information:

(A) to the Joint Fiscal Office, or to its agent, upon authorization of
the Joint Fiscal Committee or a standing committee of the General Assembly;
and ~~shall also be available~~

4 (B) to the Auditor of Accounts in connection with the performance of
5 duties under section 163 of this title; ~~provided, however, that the~~.

6 (3) The Joint Fiscal Office or its agent and the Auditor of Accounts shall
7 not disclose, ~~directly or indirectly, to any person any proprietary business~~
8 return information or any information that would identify a business except in
9 accordance with a judicial order or as otherwise specifically provided by law.

10 (c) Nothing in this section shall be construed to prohibit the publication of
11 statistical information, rulings, determinations, reports, opinions, policies, or
12 other information so long as the data are disclosed in a form that cannot
13 identify or be associated with a particular business. [Repealed.]

16 (a) In each calendar year, the Vermont Economic Progress Council may
17 approve one or more incentives under this subchapter, the total value of which
18 shall not exceed:

19 (1) \$15,000,000.00 for one or more initial approvals; and
20 (2) \$10,000,000.00 for one or more final approvals.

1 (b) The Council may increase the cap imposed in subdivision (a)(2) of this
2 section by not more than \$5,000,000.00 upon application by the Governor to,
3 and approval of, the Joint Fiscal Committee.

4 (c) In evaluating the Governor's request, the Committee shall consider the
5 economic and fiscal condition of the State, including recent revenue forecasts
6 and budget projections.

7 (d) The Council shall provide the Committee with testimony,
8 documentation, company-specific data, and any other information the
9 Committee requests to demonstrate that increasing the cap will create an
10 opportunity for return on investment to the State.

11 (e) Notwithstanding any provision of this subchapter to the contrary, the
12 Council shall not award any incentives during the six-month period following a
13 January or July consensus revenue forecast if the State unemployment rate at
14 the time of the forecast is five percent or lower.

15 Sec. 2. IMPLEMENTATION

16 (a) Subject to subsections (b) and (c) of this section, 32 V.S.A. §§ 3341 and
17 3342, as amended in Sec. 1 of this act, apply to current and future participants
18 in the Vermont Employment Growth Incentive Program.

19 (b) A business with an approved application may opt out of the amended
20 reporting requirements in 32 V.S.A. §§ 3341 and 3342 and withdraw from
21 future participation in the Program, except as otherwise provided in subsection

1 (c) of this section, by providing written notice of its intent to the Vermont
2 Economic Progress Council on or before December 31, 2023.

3 (c) A business that provides notice pursuant to subsection (b) of this section
4 is subject to and shall comply with the requirements of 32 V.S.A. chapter 105
5 as it appeared prior to the effective date of this act for the remainder of its
6 participation in the Program.

7 Sec. 3. EFFECTIVE DATE

8 This act shall take effect on July 1, 2023.