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H.10

An act relating to amending the Vermont Employment Growth Incentive Program

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

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

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE
PROGRAM

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

* * *

(b) Membership.

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

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

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

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

1 (C) two members, appointed by the Senate Committee on
2 Committees

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

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

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

10 (B) A regional member shall be a nonvoting member and shall serve
11 during consideration by the Council of an application from ~~his or her~~ the
12 member's region.

13 (3) The Council shall provide not less than 30 days' notice of a vacancy
14 to the relevant appointing authority, which shall appoint a replacement not
15 later than 30 days after receiving notice.

16 (c) Terms.

17 (1) Members of the Council appointed by the Governor shall serve
18 initial staggered terms with five members serving four-year terms, and four
19 members serving two-year terms.

20 (2) After the initial term expires, a member's term is four years and a
21 member may be reappointed.

1 (3) A term commences on April 1 of each odd-numbered year.

2 (d) Compensation.

3 (1) For attendance at a meeting and for other official duties, a member
4 appointed by the Governor shall be entitled to compensation for services and
5 reimbursement of expenses as provided in section 1010 of this title, except that
6 a member who is a member of the General Assembly shall be entitled to
7 compensation for services and reimbursement of expenses as provided in
8 2 V.S.A. § 23.

9 (2) A regional member who does not otherwise receive compensation
10 and reimbursement of expenses from ~~his or her~~ the member's regional
11 development or planning organization shall be entitled to compensation and
12 reimbursement of expenses for attendance at meetings and for other official
13 duties as provided in section 1010 of this title.

14 (e) Operation.

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

16 (2) The Council shall receive administrative support from the Agency of
17 Commerce and Community Development and the Department of Taxes.

18 (3) The Council shall have:

19 (A) an executive director appointed by the Governor with the advice
20 and consent of the Senate who is knowledgeable in subject areas of the
21 Council's jurisdiction and who is an exempt State employee; and

1 (B) administrative staff.

2 (4) The Council shall adopt and make publicly available a policy
3 governing conflicts of interest that meets or exceeds the requirements of the
4 State Code of Ethics and shall include:

5 (A) clear standards for when a member of the Council may
6 participate or must be recused when an actual or perceived conflict of interest
7 exists; and

8 (B) a provision that requires a witness who is an officer of the State
9 or its political subdivision or instrumentality to disclose a conflict of interest
10 related to an application.

11 (5) The Council shall not enter into executive session to discuss
12 applications or other matters pertaining to the Vermont Employment Growth
13 Incentive Program under subchapter 2 of this chapter unless the Executive
14 Branch State economist is present and has been provided all relevant materials
15 concerning the session.

16 * * *

17 § 3326. COST-BENEFIT MODEL

18 (a) The Council shall adopt and maintain a cost-benefit model for assessing
19 and measuring the projected net fiscal cost and benefit to the State of proposed
20 economic development activities.

1 (b) The Council shall not modify the cost-benefit model without the prior
2 approval of the Joint Fiscal Committee.

3 (c)(1) The Council shall contract with the Executive Branch State
4 economist to perform the cost-benefit analysis using the cost-benefit model
5 when considering an application for incentives under subchapter 2 of this
6 chapter.

7 (2) The Executive Branch State economist shall consult with the Joint
8 Fiscal Office or its agent concerning the performance of the cost-benefit
9 analysis and the operation of the cost-benefit model for each application in
10 which the value of potential incentives an applicant may earn equals or
11 exceeds \$1,000,000.00.

12 § 3327. ECONOMIC PROGRESS AND PERFORMANCE REPORTING

13 (a) Each year, the Council shall engage in a strategic planning process and
14 produce a report on the purposes and performance of current State-funded
15 economic development incentive programs.

16 (b) In furtherance of producing the report, the Council shall consult with
17 representatives of:

18 (1) regional development corporations;

19 (2) regional chambers of commerce; and

1 (3) business and development organizations identified by the Vermont
2 Sustainable Jobs Fund to be geographically and demographically diverse, in
3 reviewing and considering:

4 (A) the purpose and performance of current State-funded economic
5 development incentive programs; and

6 (B) appropriate incentives during low employment and during high
7 employment.

8 (c) On or before December 15 of each year, the Council shall submit the
9 report to the House Committee on Commerce and Economic Development and
10 the Senate Committee on Economic Development, Housing and General
11 Affairs with its findings and any recommendations for legislative action,
12 including whether and how any proposed program addition, revision, or other
13 legislative action would:

14 (1) integrate with and further advance the current workforce
15 development and economic development systems in this State; and

16 (2) advance the four principles of economic development articulated in
17 10 V.S.A. § 3.

18 * * *

19 § 3340. REPORTING

20 (a) On or before September 1 of each year, the Vermont Economic
21 Progress Council and the Department of Taxes shall submit a joint report on

1 the incentives authorized in this subchapter to the House Committees on Ways
2 and Means, on Commerce and Economic Development, and on
3 Appropriations, to the Senate Committees on Finance, on Economic
4 Development, Housing and General Affairs, and on Appropriations, and to the
5 Joint Fiscal Committee.

6 (b) The Council and the Department shall include in the joint report:

7 (1) the total amount of incentives authorized during the preceding year
8 and the amount per business;

9 (2) with respect to each business with an approved application:

10 (A) the date and amount of authorization;

11 (B) the calendar year or years in which the authorization is expected
12 to be exercised;

13 (C) whether the authorization is active; ~~and~~

14 (D) the date the authorization will expire; ~~and~~

15 (E) the aggregate number of new qualifying jobs anticipated to be
16 created;

17 (F) Vermont gross wages and salaries for new qualifying jobs, sorted
18 by groups in \$25,000.00 increments;

19 (G) the aggregate amount of new full-time payroll anticipated to be
20 created; and

21 (H) NAICS code; and

1 (3) the following aggregate information for claims processed:

2 (A) the number of claims and incentive payments made in the current
3 and prior claim years;

4 (B) the number of qualifying jobs for each approved claim; and

5 (C) the amount of new payroll and capital investment for each
6 approved claim.

7 (c)(1) The Council and the Department shall present data and information
8 in the joint report in a searchable format.

9 (2) Notwithstanding a provision of this section to the contrary, when
10 reporting data and information pursuant to this section, the Council and
11 Department shall take steps necessary to avoid disclosing any information that
12 would enable the identification of an individual employee or the employee's
13 compensation.

14 (d) Notwithstanding any provision of law to the contrary, an incentive
15 awarded pursuant to this subchapter shall be treated as a tax expenditure for
16 purposes of chapter 5 of this title.

17 § 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS

18 INFORMATION

19 (a) The Vermont Economic Progress Council and the Department of Taxes
20 shall use measures to protect proprietary financial information, including
21 reporting information in an aggregate form.

1 (b) Information and materials submitted by a business concerning its
2 application, income taxes, and other confidential financial information shall
3 not be subject to public disclosure under the State's public records law in
4 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent
5 upon request of a legislative member of the Council or upon authorization of
6 the Joint Fiscal Committee or a standing committee of the General Assembly,
7 and shall also be available to the Auditor of Accounts in connection with the
8 performance of duties under section 163 of this title; provided, however, that
9 the Joint Fiscal Office or its agent and the Auditor of Accounts shall not
10 disclose, directly or indirectly, to any person any proprietary business
11 information or any information that would identify a business except in
12 accordance with a judicial order or as otherwise specifically provided by law.

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

17 * * *

18 Sec. 2. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022
19 Acts and Resolves No. 164, Sec. 5 and 2023 Acts and Resolves No. 72,
20 Sec. 39, is further amended to read:

21 Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD

1 INCENTIVES

2 Notwithstanding any provision of law to the contrary, the Vermont
3 Economic Progress Council shall not accept or approve an application for a
4 Vermont Employment Growth Incentive under 32 V.S.A. chapter 105,
5 subchapter 2 on or after January 1, ~~2025~~ 2026.

6 Sec. 3. EFFECTIVE DATE

7 This act shall take effect on July 1, 2024.