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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\398_20201209.docx)

**A** **BILL**

TO AMEND ARTICLE 11, CHAPTER 1, TITLE 13 OF THE 1976 CODE, RELATING TO THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT, BY ADDING SUBARTICLE 2, TO PROVIDE FOR ECONOMIC DEVELOPMENT ACCOUNTABILITY BY SETTING FORTH JOB CREATION, WAGE, AND HEALTH CARE OBLIGATIONS FOR A RECIPIENT CORPORATION TO RECEIVE A DEVELOPMENT SUBSIDY, TO PROVIDE FOR CERTAIN CROSS‑CHECKING REQUIREMENTS FOR GRANTING BODIES AWARDING SUBSIDIES, TO PROVIDE FOR A REDUCTION IN THE VALUE OF THE SUBSIDY IF A RECIPIENT CORPORATION FALLS SHORT OF ITS OBLIGATIONS, TO PROVIDE FOR THE DISCLOSURE OF PERFORMANCE REPORTS BY RECIPIENT CORPORATIONS, TO PROVIDE THAT A GRANTING BODY SHALL PUBLISH PERFORMANCE REPORTS ON ITS WEBSITE, TO PROVIDE THAT CERTAIN REPORTS MUST BE SUBMITTED TO THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT; TO AMEND SECTION 13-1-1730 OF THE 1976 CODE, RELATING TO REPORTS BY THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT, TO PROVIDE THAT THE COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT SHALL INCLUDE IN ITS REPORT TO THE GENERAL ASSEMBLY AN ANNUAL UNIFIED ECONOMIC DEVELOPMENT BUDGET; AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 11, Chapter 1, Title 13 of the 1976 Code is amended by adding:

“Section 13-1-1700. As used in this article:

(1) ‘Corporate parent’ means 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’ means the date that a granting body provides the initial monetary value of a development subsidy to a recipient corporation, provided, however, that:

(a) if the subsidy is for the installation of new equipment, then the date is the date the corporation puts the equipment into service; and

(b) if the subsidy is for improvements to property, then the date is the date the improvements are finished, or the date the corporation occupies the property, whichever is earlier.

(3) ‘Development subsidy’ or ‘subsidy’ means any expenditure of public funds with a face value of at least twenty‑five thousand dollars for the purpose of stimulating economic development within the State, including, but not limited to, fees in lieu of taxes, 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.

(4) ‘Duration of the subsidy’ means as many years as a subsidy benefits a recipient corporation, such as the number of years a tax credit may be claimed or carried forward, the term of a loan, or the number of years a property tax reduction applies.

(5) ‘Face value’ means the amount of the loan.

(6) ‘Full‐time job’ has the same meaning as provided in Section 12‑6‑3360(M).

(7) ‘Granting body’ means any agency, board, office, public‐private partnership, public benefit corporation, authority of the State, or local government unit that initiates a development subsidy.

(8) ‘Local government unit’ means an agency, board, commission, office, school district, public benefit corporation, or public authority of a political subdivision of the State.

(9) ‘New employee’ means a full‐time employee who represents a net increase in the number of individuals employed by a recipient corporation in the State. ‘New employee’ does not include an employee who performs a job that was previously performed by another employee of the recipient corporation for at least six months.

(10) ‘Part‐time job’ means a job in which an individual is employed by a recipient corporation for less than thirty‑five hours each week.

(11) ‘Project site’ means the site of a project for which any development subsidy is provided, as specified by street address, name of locality, and zip code.

(12) ‘Property‐taxing entity’ means any entity that levies taxes upon real or personal property.

(13) ‘Recipient corporation’ means any person, association, corporation, joint venture, partnership, or other entity that receives a development subsidy.

(14) ‘Temporary job’ means a job in which an individual is hired for a season or for a limited period of time.”

SECTION 2. Article 11, Chapter 1, Title 13 of the 1976 Code is amended by adding:

“Subarticle 2

Economic Development Accountability

Section 13‑1‑1782. (A) In addition to any other requirements provided by law, each recipient corporation shall create at least one new full‐time job in the State for each thirty‑five thousand dollars of assistance it receives for a project, cumulatively, from any development subsidies.

(B) A recipient corporation’s obligation to maintain newly created jobs in the State must remain in effect for the duration of the subsidy, or for five years from the date of subsidy, whichever is longer.

(C) The job creation requirement must be used to determine whether a recipient corporation is liable for subsidy recapture or rescission.

(D) A recipient corporation may not count a job as new if the same job previously existed in another facility controlled by the recipient corporation in the United States.

Section 13‑1‑1784. (A) For the purposes of Section 13‑1‑1782, in order for a job to count as a new, full‐time job, it must have the following features:

(1) for a project site located in a metropolitan statistical area as defined by the federal Office of Management and Budget, the average hourly wage paid to nonmanagerial workers at the project site must be no lower than one hundred percent of the state rate for the industry, as most recently established by the United States Bureau of Labor Statistics;

(2) for a project site located outside of a metropolitan statistical area, the average weekly wage paid to nonmanagerial employees must be no lower than one hundred percent of the rate in the county for the industry at the project site, as most recently established by the United States Department of Commerce;

(3) health insurance coverage and at least half of the cost of the insurance premium must be paid by the recipient corporation;

(4) at least one thousand, eight hundred twenty hours of work must be performed each year;

(5) a total of at least twelve days each year of paid leave for vacation, family care, or other personal time off must be offered; and

(7) for a job in the construction industry, the recipient corporation must participate in an apprenticeship program that is registered with the state or federal government.

Section 13-1-1786. (A) For each recipient corporation, at least thirty percent of all work hours must be performed by individuals whose primary place of residence is within a zip code that includes a census tract or portion thereof in which the median annual household income is less than forty thousand dollars each year, as measured and reported by the United States Census Bureau.

(B) Each recipient corporation shall ensure that at least ten percent of all work hours are performed by individuals who, before commencing work, had an annual household income of less than forty thousand dollars and faced at least two of the following barriers to employment:

(1) being homeless;

(2) being a custodial single parent;

(3) receiving public assistance;

(4) lacking a GED or high school diploma;

(5) having a criminal record or other involvement with the criminal justice system;

(6) suffering from chronic unemployment;

(7) having been emancipated from the foster care system; or

(8) being a veteran.

Section 13‑1‑1788. (A) Granting bodies shall cross‐check job creation and other performance data submitted by recipient corporations against information sources such as unemployment insurance records or shall conduct periodic audits of recipient corporation’s submissions using outside auditors.

(B) A recipient corporation is subject to subsidy recapture or rescission if:

(1) it fails to meet its job creation, wage, and health care obligations for a project site within two years of the date of subsidy, or any more stringent requirements as provided by law;

(2) it fails to maintain its wage and benefit obligations for the duration of the subsidy, or for five years from the date of subsidy, whichever is longer, or any more stringent requirements as provided by law; or

(3) the corporate parent of the recipient corporation fails to maintain, for the duration of the subsidy or for five years from the date of subsidy, whichever is longer, at least ninety percent of its employment in the State, with a basis of December thirty‑first of the year the subsidy was granted, or any more stringent requirements as provided by law.

Section 13‑1‑1790. (A) For each year a recipient corporation fails to meet its obligations for job creation, wages, and health care insurance, the subsidy must be reduced on a prorated basis by the same share of jobs that were not created or that failed to meet wage and health care insurance obligations. If the subsidy has already accrued to the recipient corporation, then the State shall recapture the subsidy reduction.

(B) If a recipient corporation fails to meet its job creation obligations by twenty‑five percent or more for three consecutive years, then the pro rata recapture must apply for the third year in default, and the subsidy must be rescinded effective January first of the following year.

(C) For each year a corporate parent fails to maintain at least ninety percent of its base employment level in the State, the subsidy must be reduced at twice the rate of the corporate parent’s job loss from one hundred percent of its basis of December thirty‑first of the year the subsidy was granted. If the subsidy has already accrued to the recipient corporation, then the State shall recapture the subsidy reduction.

(D) If the corporate parent fails to maintain at least ninety percent of its base employment level in the State for three years in a row, then the pro rata recapture must apply for the third year in default, and the subsidy must be rescinded effective January first of the following year.

Section 13‑1‑1792. (A) Each recipient corporation shall file an annual performance report with its granting body on a reporting form issued by the granting body by no later than February first of each year. The annual performance report must include the following information from the previous year:

(1) the name, street and mailing addresses, phone number, and chief officer of the recipient corporation, along with its North American Industry Classification System industry code and its Dun & Bradstreet identification number;

(2) the street address of the project site, if it is different from the address in item (1);

(3) a summary of the number of jobs required by the terms of the subsidy deal, and actual jobs created or lost as of December thirty‑first of the previous year, itemized by full‐time, part‐time, and temporary positions, and by wage groups;

(4) whether health care insurance coverage is provided to the employees at the project site and, if so, the share of the policy premiums paid by the recipient corporation;

(5) the total employment in the State of the recipient’s corporate parent on December thirty‑first for each of the two previous years, broken down by full‐time, part‑time, and temporary positions;

(6) a summary of capital investment required by the terms of the subsidy and actual capital investment made as of December thirty‑first of the previous year;

(7) a statement as to whether the subsidized project has, during the previous calendar year, resulted in reduced employment at any other site controlled by the recipient corporation or its corporate parent, inside or outside the State, due to automation, merger, acquisition, corporate restructuring, relocation, or other business activity;

(8) a statement summarizing any instance, during the previous calendar year, in which the recipient corporation, or a corporate parent or subsidiary entity, was determined by a governmental agency to have violated any federal, state, or local law or regulation relating to environmental protection, taxation, labor standards, or employment discrimination or was notified that an investigation of a possible violation had been initiated; and

(9) a signed certification by the chief officer of the recipient corporation as to the accuracy of the annual performance report.

(B) Recipient corporations shall file annual performance reports for the duration of the subsidy, or for five years from the date of subsidy, whichever period is greater.

(C) A granting body 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 verify the annual performance reports.

(D) A recipient corporation that fails to provide the granting body with a completed annual performance report by the deadline shall be fined by the granting body:

(1) no less than five hundred dollars each day, commencing ten working days after the deadline; and

(2) no less than one thousand dollars each day, commencing twenty working days after the deadline.

(E) A recipient corporation that fails to provide the granting body access to the project site at a reasonable time must be subject to a fine of one thousand dollars each day starting with the first day access is not provided.

Section 13‑1‑1794. (A) A granting body shall publish prominently on its website a compilation of the annual performance reports no later than April first of each year.

(B) The compilation of annual performance reports must contain all of the data from the annual performance reports both in a searchable database and as a spreadsheet that can be downloaded in its entirety. When a new annual performance report is posted, earlier versions of the data must remain available on the website.

(C) The compilation of annual performance reports must also contain the granting body’s determination of whether a recipient corporation has yet met its obligations for job creation, wages, and benefits as required by the subsidy. If the granting body has previously determined that a recipient corporation has fulfilled its obligations, then the compilation of annual performance reports must contain the granting body’s determination of whether the recipient corporation has maintained its fulfilled obligations.

(D) Along with the compilation of annual performance reports, the granting body must also post portable document format copies of key documents relating to each subsidy award.

(E) If the granting body determines that a recipient corporation has failed to fulfill its obligations for job creation, wages, and benefits as required by the subsidy in the required period of time, or if the granting body determines that the recipient corporation has failed to maintain its fulfilled obligations, then the compilation of annual performance reports must also state what penalty the granting body has imposed upon the recipient corporation.

(F) The compilation of annual performance reports must also include the granting body’s verification that the recipient corporation’s corporate parent has maintained at least ninety percent of its employment in the State since December thirty‑first of the year for which the subsidy was granted. If the granting body determines that the recipient corporation’s corporate parent has failed to maintain that level of employment, then the compilation of annual performance reports must include whatever penalty or penalties the agency has imposed upon the corporate parent.

(G) The state’s general transparency website must include a link to the website or websites with the compilation of annual performance reports.

Section 13‑1‑1796. (A)(1) Each state or local property‐taxing entity shall annually submit a report to the coordinating council regarding:

(a) any real property located within the entity’s jurisdiction that has received a property tax abatement or reduction during the fiscal year, including fees in lieu of taxes;

(b) any real property that is publicly owned and leased to a private entity for the purposes of economic development, exempting the private entity from property taxes; and

(c) the total property tax revenue lost during the tax year as a result of all property tax abatements and reductions in the entity’s jurisdiction.

(2) For property pursuant to item (1)(a) and (b), the report must include, but is not limited to:

(a) the name of the property owner;

(b) the address of the property;

(c) the start and end dates of the property tax reduction or abatement; and

(d) for each tax year, the effective amount of the tax reduction, by both percentage rate and by dollar value, including, as applicable, fees in lieu of taxes.

(B) The report must be submitted in electronic spreadsheet form to the coordinating council, in a format adopted by the coordinating council, and must be submitted no more than three months after the end of the tax year.

(C) The coordinating council shall annually compile and publish on its website all of the data contained in the reports in both written and electronic spreadsheet form that can be downloaded no more than six months after the end of the tax year.

(D) If a property‐taxing entity fails to submit its reports to the coordinating council within the prescribed time, then the coordinating council shall notify the State Treasurer and the State Comptroller, and the State Treasurer and State Comptroller shall withhold payments and warrants of all state monies due to the delinquent entity until the entity files its reports with the coordinating council.

Section 13‑1‑1798. If a granting body fails to enforce any provision of this chapter, then any individual who paid personal income taxes to the State in the calendar year before the year in dispute, or any organization representing taxpayers, is entitled to bring a civil action in state court to compel enforcement under this statute. The court shall award reasonable attorney’s fees and costs to the prevailing taxpayer or organization.

Section 13‑1‑1800. Granting bodies shall publish on their websites summary statistics about their enforcement activities, as well as lists of recipient corporations involved in those activities. All records required to be prepared or maintained under this chapter, including, but not limited to, applications, performance reports, recapture proceedings, and any other records, are subject to disclosure under Chapter 4, Title 30.”

SECTION 3. Section 13-1-1730 of the 1976 Code is amended to read:

“Section 13-1-1730. (A) The coordinating council shall make reports to the Governor, the chairmen of the Senate Finance and House Ways and Means Committees, and the General Assembly at least annually, in the Department of Commerce's annual report, on the status and progress of economic development goals which have been set for the State as a part of the ongoing planning process and on the commitments, expenditures, and balance of the Economic Development Account, with appropriate recommendations.

(B)(1) The report to the General Assembly must include an annual unified economic development budget, which must be posted publicly on the coordinating council’s website, with specified portions available as spreadsheets that can be downloaded. The budget must include all types of expenditures for economic development during the prior fiscal year, including, but not limited to:

(a) company‐specific tax expenditures, including the amount of uncollected, forgiven, credited, or rebated state tax revenue, line itemized by program, resulting from any tax‑based economic development programs resulting from every corporate tax credit, abatement, exemption, and reduction provided by the State or a local governmental unit for the purpose of job creation or retention, including, but not limited to, gross receipts, income, sales, use, raw materials, excise, property, utility, and inventory taxes;

(b) for each tax year, the name of each corporate taxpayer that claimed any tax credit, abatement, exemption, or reduction under subitem (a) of any value equal to or greater than five thousand dollars, together with the dollar amount received by each corporate taxpayer;

(c) program‐specific appropriated expenditures, including all state-appropriated program expenditures for economic development, line itemized for state‑funded economic development programs for every state‐funded entity with an economic development mission;

(d) agency‐specific appropriated expenditures, including all state‐appropriated expenditures for the administration of economic development agencies, line itemized for state‑funded economic development agencies for every state‐funded agency with an economic development mission; and

(e) a three‐year cost‐trend analysis for each reported program and agency, describing the rate of growth or decline in spending over time, and including the number of corporations assisted each year.

(2) All information in items (1)(a) through (e) must be posted in a spreadsheet form that can be downloaded from the coordinating council’s website.

(3) Any tax credit, abatement, exemption, or reduction received by a recipient corporation of less than five thousand dollars each may not be itemized. For each tax year, the coordinating council shall report an aggregate dollar amount of such expenditures and the number of recipient corporations so aggregated for each tax expenditure.”

SECTION 4. This act takes effect upon approval by the Governor.

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