

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1754, L.D. 2460, Bill, "An Act to Establish Criteria for Tax Incentive Programs"

Amend the amendment in section 2 by striking out all of subsection 3 and inserting in its place the following:

'3. **Report.** Annually, an employer receiving an economic development incentive, the value of which exceeds \$10,000 in one year, shall submit a written report to the commissioner no later than August 1st of the following year containing but not limited to the following information:

A. The amount of assistance received by the employer in the preceding year from each economic development incentive and the uses to which that assistance has been put;

B. The total amount of assistance received from all economic assistance programs;

C. The number, type and wage level of jobs created or retained as a result of an economic development incentive;

D. Current employment levels for the employer for all operations within the State, the number of employees in each job classification and the average wages and benefits for each classification;

E. Any changes in employment levels that have occurred over the preceding year; and

F. An assessment of how the employer has performed with respect to the public purpose identified in subsection 2, paragraph A, if applicable.

The department shall mail report forms by May 15th of each year to every employer required to file a report under this subsection. Reports filed under this subsection are public records for purposes of Title 1, chapter 13.'

Further amend the amendment in section 2 in subsection 4 by striking out all of paragraph E and inserting in its place the following:

'E. The department shall report by October 1st annually to the State Tax Assessor a listing of employers that have failed to submit reports required under subsection 3. The report must document that each employer included in the report was provided with reasonable official notification of its noncompliance and that its failure to submit the required report within 30 days would result in the withholding and potential forfeiture of reimbursements for which the employer may be eligible under Title 36, chapter 915. The notification must be in the form of a letter posted by certified mail before August 15th of the reporting year. If the department subsequently receives a report from the employer, the department shall so notify the State Tax Assessor.'

F. Prior to any forfeiture of benefits under Title 36, section 6652, subsection 3, the department shall make a written determination that the report required by subsection 3 either has not been received or is not in an acceptable form. A copy of that written determination, including the reasons for the determination, must be mailed to the claimant by certified mail. The determination made by the department constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination as to whether the claimant has filed a report in substantial compliance with this section. The Superior Court shall make its own determination as to all questions of fact and law. The Superior Court shall enter such orders and decrees as the case may require. In the event that the department's determination is appealed to Superior Court pursuant to this paragraph, forfeiture of the claimant's right to receive reimbursement of taxes under Title 36, chapter 915 may not occur unless the Superior Court, subject to any appeal to the Law Court, finds that the claimant had not substantially complied with the reporting requirements of this section.'

Further amend the amendment in section 6 by striking out all of subsection 3 and inserting in its place the following:

'3. Withholding for failure to report. Provided that the Department of Economic and Community Development has complied with the notice requirements of Title 5, section 13070-J, subsection 4, paragraph E and the notice required by that provision has been received by the claimant, the State Tax Assessor shall withhold reimbursement under this chapter for a claimant listed by the department pursuant to Title 5, section 13070-J, subsection 4, paragraph E as failing to submit the reports required by Title 5, section 13070-J, subsection 3 and who, as of the date of the claim for which payment is being withheld, has failed to submit a report that has become due. Upon notification by the department of its receipt of the required report in an acceptable form, the State Tax Assessor shall make the payment that was withheld. The right to receive payment is forfeited if the overdue report is not received in an acceptable form by the department within 180 days following the date the claim for reimbursement was filed, except that a forfeiture may not occur unless and until the following requirements have been satisfied:

A. The assessor has notified the Department of Economic and Community Development, at least 60 days prior to the expiration of the 180 day period, of the date on which that 180 day period will expire;

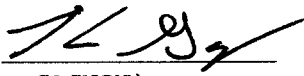
B. The Department of Economic and Community Development has notified the claimant in writing by certified mail within 15 days of receiving the assessor's notice that the department has made a determination under Title 5, section 13070-J, subsection 4, paragraph F that the report filed by the claimant has not been received or is in unacceptable form and that the right to reimbursement is subject to forfeiture if a report in acceptable form is not filed within 180 days following the date the claim for reimbursement was filed; and

C. The claimant has either not appealed the determination of the Department of Economic and Community Development to Superior Court within 30 days of receipt by the claimant of the written determination in accordance with Title 5, section 13070-J, subsection 4, paragraph F or the claimant has appealed and the department's determination has been upheld on appeal.'

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1754,
L.D. 2460

SUMMARY

This amendment provides additional notice and due process rights to claimants who are at risk of forfeiting reimbursement under the business equipment tax reimbursement program for failure to file reports required under the economic development incentives reporting law.

SPONSORED BY: 
(Representative GAGNON)

TOWN: Waterville