

MAINE STATE LEGISLATURE

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M
R.S.

L.D. 2460

DATE: 4-3-00

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MAJORITY
TAXATION

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

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

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 5 MRSA §13070-J, sub-§1, ¶E is enacted to read:

E. "Economic development proposal" means proposed legislation that establishes a new program or that expands an existing program that:

(1) Is intended to encourage significant business expansion or retention in the State; and

(2) Contains a tax expenditure, as defined in section 1664, or a budget expenditure with a cost that is estimated to exceed \$100,000 per year.

Sec. 2. 5 MRSA §13070-J, sub-§§3 and 4, as enacted by PL 1997, c. 761, §2, are amended to read:

3. Report. Annually,--an 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:

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

2 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;

4
6 B. The total amount of assistance received from all
economic assistance programs;

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

10
12 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
14 each classification;

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

18
20 F. An assessment of how the employer has performed with
respect to the public purpose identified in subsection 2,
paragraph A, if applicable.

22 Reports filed under this subsection are public records for
24 purposes of Title 1, chapter 13.

26 **4. Agency reports.** The following agencies shall submit the
following reports.

28
30 A. The State Tax Assessor shall submit a report by May 1st
~~of 1999 and each odd-numbered year thereafter~~ October 1st
32 annually to the Legislature and the commission identifying
the amount of public funds spent and the amount of revenues
foregone as the result of economic development incentives.
34 The report must identify the amount of the economic
development incentives under the jurisdiction of the Bureau
36 of Revenue Services received by each employer to the extent
permitted under Title 36, section 191 and other provisions
38 of law concerning the confidentiality of information.

40 B. The Commissioner of Labor shall report by May October
42 1st annually to the Legislature and the commission on the
amount of public funds spent on workforce development and
training programs directly benefiting businesses in the
44 State. The report must identify the amount of economic
development incentives under the jurisdiction of the
46 Department of Labor received by each employer and the public
benefit resulting from those economic development incentives.

48
50 C. The Maine Technical College System shall report by May
October 1st annually to the Legislature and the commission

2 on the amount of public funds spent on job training programs
3 directly benefiting businesses in the State. The report
4 must identify the amount of economic development incentives
5 under the jurisdiction of the system received by each
6 employer and the public benefit resulting from those
7 economic development incentives.

8 D. The department shall report by May October 1st annually
9 to the Legislature and the commission on the amount of
10 public funds spent for the direct benefit of businesses in
11 the State under municipal tax increment financing,
12 employment tax increment financing and the Governor's
13 training initiative. The report must identify the amount of
14 economic development incentives under the jurisdiction of
15 the department received by each employer and the public
16 benefit resulting from those economic development incentives.

17 E. The department shall report by October 1st annually to
18 the State Tax Assessor a listing of employers that have
19 failed to submit reports required under subsection 3. The
20 report must document that each employer included in the
21 report was provided with reasonable official notification of
22 its noncompliance and that its failure to submit the
23 required report within 30 days would result in the
24 withholding of reimbursements for which the employer may be
25 eligible under Title 36, chapter 915. For purposes of this
26 paragraph, a letter of notification posted by certified mail
27 before August 15th of the reporting year is reasonable
28 notification.

29
30 **Sec. 3. 5 MRSA §13070-L, sub-§5,** as enacted by PL 1997, c.
31 761, §2, is amended to read:

32
33 **5. Staffing.** The Bureau--of--Revenue--Services Office of
34 Fiscal and Program Review shall provide staff assistance to the
35 commission.
36

37 **Sec. 4. 5 MRSA §13070-M,** as enacted by PL 1997, c. 761, §2,
38 is amended to read:

39 **§13070-M. Repeal**

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41 This article is repealed ~~October 1, 2001~~ August 1, 2002.

42
43 **Sec. 5. 5 MRSA §13070-O** is enacted to read:

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45 **§13070-O. Evaluation of economic development proposals**

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47 **1. Criteria.** An economic development proposal must:
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2 A. Have a program name that accurately describes the nature
3 of the program;

4 B. Have specific stated objectives, such as the number of
5 jobs to be created or retained, the wage levels and benefits
6 associated with those jobs or a project with significant
7 value to the State or a community within the State;

8 C. Specify a method to measure whether the objectives of
9 the program have been met;

10 D. Require that a business that receives benefits under the
11 program report on the use of the benefits received;

12 E. Require that the appropriate joint standing committee of
13 the Legislature review the program at specific and regular
14 intervals;

15 F. Provide incentives for a business to meet objectives of
16 the program and, when incentives are provided in
17 anticipation of contractual performance, penalties for a
18 business that does not meet the objectives of the program;
19 and

20 G. Provide a cost analysis of the program based on at least
21 a 10-year period.

22 2. Review of criteria. The department shall review each
23 economic development proposal and any information relevant to the
24 proposal and shall report to the joint standing committee of the
25 Legislature having jurisdiction over the proposal on the extent
26 to which the proposal meets the criteria specified in subsection
27 1.

28 **Sec. 6. 36 MRS §6652, sub-§3 is enacted to read:**

29 3. Withholding for failure to report. The State Tax
30 Assessor shall withhold reimbursement under this chapter for a
31 claimant listed by the Department of Economic and Community
32 Development pursuant to Title 5, section 13070-J, subsection 4,
33 paragraph E as failing to submit the reports required by Title 5,
34 section 13070-J, subsection 3 and who, as of the date of the
35 claim, has failed to submit the report. Upon notification by the
36 department of its receipt of the required report in an acceptable
37 form, the assessor shall make the payment that was withheld
38 except that the right to receive the payment is forfeited if the
39 report is not received in an acceptable form by the department
40 within 180 days following the date the claim for reimbursement
41 was filed.

42 **Sec. 7. 36 MRS §6656, as enacted by PL 1995, c. 368, Pt.**
43 **FFF, §2, is amended to read:**

2 **§6656. Payment of claims**

4 Upon Except as provided in section 6652, subsection 3, upon
6 receipt of a timely and properly completed claim for
8 reimbursement, the State Tax Assessor shall certify that the
10 claimant is eligible for reimbursement and shall pay the amount
12 claimed from the General Fund within 180 days after the claim is
filed. For those claims for which payments are withheld pursuant
to section 6652, subsection 3, reimbursement must be paid within
180 days after the assessor receives notification under that
subsection that the report has been received.

14 **Sec. 8. Review of economic development incentives.** The Department
16 of Economic and Community Development, in consultation with the
18 Economic Development Incentive Commission established in the
20 Maine Revised Statutes, Title 5, section 12004-I, subsection 6-A,
22 shall review economic development incentives as defined in Title 5,
24 section 13070-J using the criteria specified in Title 5,
26 section 13070-O. The department shall review and report on the
28 economic development incentives in Title 5, section 13070-J,
subsection 1, paragraph D, subparagraphs (1) to (3) by November
1, 2000. The department shall review and report on the economic
development incentives in Title 5, section 13070-J, subsection 1,
paragraph D, subparagraphs (4) to (7) by November 1, 2001. The
department's reports must be submitted to the joint standing
committee of the Legislature having jurisdiction over taxation
matters.

30 **Sec. 9. Appropriation.** The following funds are appropriated
32 from the General Fund to carry out the purposes of this Act.

2000-01

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LEGISLATURE

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**Economic Development
38 Incentive Commission**

40 All Other \$20,000

42 Provides a continuing annual appropriation
44 for studies, research and operating expenses
46 for the commission to carry out its
statutory duties.'

48 Further amend the bill by inserting at the end before the
summary the following:

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FISCAL NOTE

2000-01

APPROPRIATIONS/ALLOCATIONS

General Fund \$20,000

This bill includes a General Fund appropriation of \$20,000 in fiscal year 2000-01 to the Legislature to provide funding for the Economic Development Incentive Commission for studies, research and operating expenses of the commission. An additional General Fund appropriation will also be requested in fiscal year 2001-02 for the costs associated with commission activities. The Legislature will also incur additional costs associated with providing staff assistance to the commission. The ability of the Legislature and the Office of Fiscal and Program Review to absorb these additional responsibilities within existing staff resources can not be determined at this time. Additional staffing may be required by the Office of Fiscal and Program Review.

The Bureau of Revenue Services, Department of Economic and Community Development, the Department of Labor and the Maine Technical College System will incur some minor additional costs associated with the continuation of the Economic Development Incentive Commission. These additional costs can be absorbed by these agencies utilizing existing budgeted resources.

The additional costs associated with its expanded reporting requirements can be absorbed by the Department of Economic and Community Development utilizing existing budgeted resources.

To the extent that employers fail to report or fail to report in a timely manner, the Personal Property Tax Reform (BETR) program may realize savings from the deferral or forfeiture of reimbursements. The amount of any savings to this program can not be determined at this time.'

SUMMARY

This amendment is the majority report of the Joint Standing Committee on Taxation. The amendment replaces the bill. The amendment does the following:

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

2 1. Provides criteria and a procedure for evaluation by the
4 Department of Economic and Community Development of significant
new economic development proposals and existing economic
development incentives;

6 2. Changes reporting dates and clarifies reporting
responsibilities;

8 3. Requires reimbursement for property taxes on business
10 equipment be withheld if the business has not filed required
reports with the Department of Economic and Community Development;

12 4. Changes the date for automatic repeal of the economic
14 development incentive review law from October 1, 2001 to August
1, 2002;

16 5. Changes staffing of the Economic Development Incentive
18 Commission to the Office of Fiscal and Program Review;

20 6. Provides an appropriation to provide funding of studies,
22 research and the commission's operating expenses; and

24 7. Adds a fiscal note to the bill.