

HOUSE BILL 2749

By Miller

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 8; Title 9 and Title 67, relative to taxpayer  
protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) This section shall be known and may be cited as the "Taxpayer Protection Act."

(b) The general assembly finds that:

(1) This state has awarded significant amounts of funds in economic development subsidies over the past five (5) years. It is essential that these public funds be spent efficiently and effectively;

(2) If taxpayers subsidize a company to create a certain number of jobs but the company does not meet its targets, it is only fair and right to shrink the payment to match the benefits received; and

(3) Since the subsidy has been received by the company, the appropriate procedure is for the state treasury to recapture all or a portion of the subsidy from corporations that do not fulfill the requirements needed to obtain the subsidy.

(c) The purpose of this section is to prevent corruption or the appearance of corruption in the award of economic development subsidies.

(d) As used in this section:

(1) "Corporate parent" means any person, association, corporation, joint venture, partnership, or other entity that owns or controls fifty percent (50%) 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 if the subsidy is for the installation of new equipment, such date is the date the corporation puts the equipment into service; provided, further, that if the subsidy is for improvements to property, such date is the date the improvements are finished, or the date the corporation occupies the property, whichever is earlier;

(3) "Development subsidy" means any expenditure of public funds with a value of at least twenty-five thousand dollars (\$25,000) for the purpose of stimulating economic development within the state, including, but not limited to, 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 subsidy" means the total number of years that a subsidy benefits a recipient corporation, such as the number of years a tax credit may be claimed or carried forward, the number of years in the period of a loan, or the number of years a property tax reduction applies;

(5) "Full-time job" means a job in which an individual is employed by a recipient corporation for at least thirty-five (35) hours per week;

(6) "Granting body" means any agency, board, office, public-private partnership, public benefit corporation, or public authority of the state or a local government unit that provides a development subsidy;

(7) "Local government unit" means an agency, board, commission, office, public benefit corporation, or public authority of a political subdivision;

(8) "New employee" means a full-time employee who represents a net increase in the number of individuals employed by the 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 if that job existed for at least six (6) months before hiring the employee;

(9) "Part-time job" means a job in which an individual is employed by a recipient corporation for less than thirty-five (35) hours per week;

(10) "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;

(11) "Property-taxing entity" means any entity which levies taxes upon real or personal property;

(12) "Recipient corporation" means any person, association, corporation, joint venture, partnership, or other entity that receives a development subsidy;

(13) "Small business" means a corporation whose corporate parent, and all subsidiaries thereof, that employed fewer than twenty (20) full-time employees or had total gross receipts of less than one million dollars (\$1,000,000) during the calendar year;

(14) "State" means an agency, board, commission, office, public benefit corporation, or public benefit authority of the state;

(15) "Subsidy value" means the face value of any and all development subsidies provided to a recipient corporation. The face value of a loan means the amount of the loan; and

(16) "Temporary job" means a job in which an individual is hired for a season or for a limited period of time.

(e)

(1) Public agencies awarding subsidies shall cross-check job creation and other performance data submitted by recipients against information sources such as unemployment insurance records or shall conduct period audits of company submissions using outside auditors.

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

(A) The corporation fails to achieve its job creation, wage, and healthcare requirements for the project site within two (2) years of the date of subsidy;

(B) The corporation fails to maintain its wage and benefit achievements as long as the subsidy is in effect, or for a period of five (5) years, whichever is longer; or

(C) The corporate parent of the recipient corporation fails to maintain, for the duration of the subsidy or for a period of five (5) years, whichever is longer, at least ninety percent (90%) of its employment in the state, with the basis of December 31 of the year the subsidy was granted.

(3) Subsidy recapture or rescission must take place as follows:

(A) For each year the recipient corporation falls short of its obligations for job creation, wages, and healthcare insurance, the value of the subsidy shall be reduced on a prorated basis by the same share of jobs that were not created or that failed to meet wage and healthcare insurance obligations. If the subsidy has already accrued to the recipient corporation, the state shall recapture the subsidy reduction;

(B) If a recipient corporation falls short on its job creation obligations by twenty-five percent (25%) or more for three (3) consecutive

years, the pro rata recapture shall apply for the third year in default and the subsidy shall be rescinded effective January 1 of the following year;

(C) For each year the corporate parent fails to maintain at least ninety percent (90%) of its base employment level in the state, the subsidy shall be reduced at twice the rate of the corporate parent's job loss from one hundred percent (100%) of its basis as of December 31 of the year the subsidy was granted. If the subsidy has already accrued to the recipient corporation, the state shall recapture the subsidy reduction; and

(D) If the corporate parent fails to maintain at least ninety percent (90%) of its base employment level in the state for three (3) years in a row, the pro rata recapture shall apply for the third year in default and the subsidy shall be rescinded effective January 1 of the following year.

(f)

All records required to be prepared or maintained under this section, including, but not limited to, applications, performance reports, recapture proceedings, and any other records relating thereto, shall be open to public inspection pursuant to title 10, chapter 7, part 5. Granting bodies must publish on their websites summary statistics about their enforcement activities and lists of recipient companies involved in those activities.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 3. This act shall take effect July 1, 2020, the public welfare requiring it.