

CHAPTER 350

TAXATION

SENATE BILL 94-182

BY SENATORS Pastore, Bishop, Casey, Cassidy, Feeley, Gallagher, Hopper, Johnson, Martinez, Norton, Tebedo, and Wells;
also REPRESENTATIVES Schauer, Armstrong, Hagedorn, Hernandez, and Kerns.

AN ACT**CONCERNING PROPERTY TAX INCENTIVE PAYMENTS FOR ECONOMIC DEVELOPMENT PURPOSES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-32-110 (1) (ff) and (1) (gg), Colorado Revised Statutes, 1988 Repl. Vol., as amended by House Bill 94-1001, enacted at the Second Regular Session of the Fifty-ninth General Assembly, are amended to read:

22-32-110. Board of education - specific powers. (1) In addition to any other power granted to a board of education of a school district by law, each board of education of a school district shall have the following specific powers, to be exercised in its judgment:

(ff) To negotiate for an incentive payment OR CREDIT with any taxpayer who establishes a new business facility, as defined in section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3), in such school district; however, no negotiations may be entered into with any taxpayer establishing a new business facility unless such school district has been notified, pursuant to sections 30-11-123 (5) and 31-15-903 (4), C.R.S., by any county and by any municipality in which such new business facility would be located of agreements negotiated by such local governments with such taxpayer. In no instance shall any such negotiation result in an annual incentive payment OR CREDIT which exceeds fifty percent of the amount of the taxes levied by the school district upon the taxable personal property located at or within such new business facility and used in connection with the operation of such new business facility for the current property tax year. An agreement negotiated pursuant to this paragraph (ff) prior to July 1, 1994, shall be valid. ~~No new agreement shall be negotiated pursuant to the provisions of this paragraph (ff) on or after January 1, 1995.~~ Any school district

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

which negotiates any agreement pursuant to the provisions of this paragraph (ff) shall inform any county and any municipality in which a new business facility would be located of such negotiations. THE TERMS OF ANY AGREEMENT MADE PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (ff) SHALL NOT EXCEED FOUR YEARS.

(gg) To negotiate for an incentive payment OR CREDIT with any taxpayer who expands a facility, as defined in section 39-22-508.2 (2) (a), C.R.S., the expansion of which constitutes a new business facility, as defined in section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3), and which is located in such school district; however, no negotiations may be entered into with any taxpayer expanding a facility unless such school district has been notified, pursuant to sections 30-11-123 (5) and 31-15-903 (4), C.R.S., by any county and by any municipality in which such expanded business facility is located of agreements negotiated by such local governments with such taxpayer. In no instance shall any such negotiation result in such an annual incentive payment OR CREDIT which is greater than fifty percent of the amount of the taxes levied by the school district upon the taxable personal property directly attributable to such expansion, located at or within such expanded facility, and used in connection with the operation of such expanded facility for the current property tax year. An agreement negotiated pursuant to this paragraph (gg) prior to July 1, 1994, shall be valid. ~~No new agreement shall be negotiated pursuant to the provisions of this paragraph (gg) on or after January 1, 1995.~~ Any school district which negotiates any agreement pursuant to the provisions of this paragraph (gg) shall inform any county and any municipality in which an expanded business facility is located of such negotiations. THE TERMS OF ANY AGREEMENT MADE PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (gg) SHALL NOT EXCEED FOUR YEARS.

SECTION 2. 22-54-106 (8) (a), Colorado Revised Statutes, 1988 Repl. Vol., as enacted by House Bill 94-1001, enacted at the Second Regular Session of the Fifty-ninth General Assembly, is amended, and the said 22-54-106 (8) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-54-106. Local and state shares of district total program.
(8) (a) (I) SUBJECT TO THE LIMITATIONS IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), for any school district which has entered into an agreement with a taxpayer pursuant to section 22-32-110 (1) (ff) or (1) (gg), ~~and which is subject to the provisions of this subsection (8);~~ the state's share of the district's total program shall be the amount by which the district's total program exceeds the amount of specific ownership tax revenue paid to the district and the amount of property tax revenue which the district would have been entitled to receive if the valuation for assessment of the district did not include the portion of the valuation for assessment of the personal property of such taxpayer which, when levied upon by the district, would result in property tax revenue equal to the amount of incentive payment OR CREDIT to such taxpayer pursuant to such agreement.

(II) FOR THE 1995-96 BUDGET YEAR AND BUDGET YEARS THEREAFTER, THE DEPARTMENT SHALL ENSURE THAT THE AMOUNT OF THE STATE'S SHARE OF THE DISTRICT'S TOTAL PROGRAM, AS CALCULATED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), DOES NOT EXCEED THE AMOUNT OF THE STATE'S SHARE OF THE DISTRICT'S TOTAL PROGRAM WHICH WOULD OTHERWISE HAVE RESULTED IF THE TAXPAYER HAD NOT ESTABLISHED THE NEW BUSINESS FACILITY OR EXPANDED THE

EXISTING FACILITY. THE STATE BOARD SHALL PRESCRIBE, BY RULE AND REGULATION, GUIDELINES FOR THE DEPARTMENT TO USE IN MAKING THE DETERMINATION CONCERNING THE STATE'S SHARE PURSUANT TO THIS SUBPARAGRAPH (II).

(d) THE STATE'S SHARE OF A DISTRICT'S TOTAL PROGRAM SHALL ONLY BE CALCULATED UNDER THE PROVISIONS OF THIS SUBSECTION (8) FOR A PERIOD OF TEN YEARS AS A RESULT OF AN AGREEMENT OR SERIES OF AGREEMENTS BETWEEN THE DISTRICT AND A TAXPAYER WITH RESPECT TO THE ESTABLISHMENT OF THE SAME NEW BUSINESS FACILITY OR THE SAME SPECIFIC EXPANSION OF AN EXISTING FACILITY.

SECTION 3. 30-11-123 (1) (b), (2), (4), and (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

30-11-123. Legislative declaration - counties - new business facilities - expansion of existing business facilities - incentives - limitations - authority to exceed revenue-raising limitations. (1) (b) Notwithstanding any law to the contrary, any county may negotiate for an incentive payment OR CREDIT with any taxpayer who establishes a new business facility, as defined in section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3), in such county. In no instance shall any such negotiation result in such an annual incentive payment OR CREDIT which is greater than fifty percent of the amount of the taxes levied by the county upon the taxable personal property located at or within such new business facility and used in connection with the operation of such new business facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed four years.

(2) Notwithstanding any law to the contrary, any county may negotiate for an incentive payment OR CREDIT with any taxpayer who expands a facility, as defined in section 39-22-508.2 (2) (a), C.R.S., the expansion of which constitutes a new business facility, as defined in section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3), and which is located in such county. In no instance shall any such negotiation result in such an annual incentive payment OR CREDIT which is greater than fifty percent of the amount of the taxes levied by the county upon the taxable personal property directly attributable to such expansion, located at or within such expanded facility, and used in connection with the operation of such expanded facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed four years.

~~(4) No county may negotiate any new agreement pursuant to the provisions of this section on or after January 1, 1995.~~

(6) Any county may adjust the amount of its tax levy authorized pursuant to the provisions of section 29-1-301, C.R.S., or pursuant to a county home rule charter, whichever is applicable, by an additional amount which does not exceed the total amount of annual incentive payments OR CREDITS made by such county in accordance with agreements negotiated pursuant to the provisions of this section OR SECTION 39-30-107.5, C.R.S.

SECTION 4. 31-15-903 (1) (b), (2), (3), and (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

31-15-903. Legislative declaration - municipalities - new business facilities - expansion of existing business facilities - incentives - limitations - authority to exceed revenue-raising limitation. (1) (b) Notwithstanding any law to the contrary, any municipality may negotiate for an incentive payment OR CREDIT with any taxpayer who establishes a new business facility, as defined in section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3), in such municipality. In no instance shall any such negotiation result in an annual incentive payment OR CREDIT which is greater than fifty percent of the amount of taxes levied by the municipality upon the taxable personal property located at or within such new business facility and used in connection with the operation of such new business facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed four years.

(2) Notwithstanding any law to the contrary, any municipality may negotiate for an incentive payment OR CREDIT with any taxpayer who expands a facility, as defined in section 39-22-508.2 (2) (a), C.R.S., the expansion of which constitutes a new business facility, as defined in section 39-22-508.2 (3), C.R.S., but excluding the requirements of paragraph (b) of said subsection (3), and which is located in such municipality. In no instance shall any such negotiation result in such an annual incentive payment OR CREDIT which is greater than fifty percent of the amount of the taxes levied by the municipality upon the taxable personal property directly attributable to such expansion, located at or within such expanded facility, and used in connection with the operation of such expanded facility for the current property tax year. The term of any agreement made pursuant to the provisions of this section shall not exceed four years.

~~(3) No municipality may negotiate any new agreement pursuant to the provisions of this section on or after January 1, 1995.~~

(5) Any municipality may adjust the amount of its tax levy authorized pursuant to the provisions of section 29-1-301, C.R.S., or pursuant to a municipal home rule charter, whichever is applicable, by an additional amount which does not exceed the total amount of annual incentive payments OR CREDITS made by such municipality in accordance with any agreements negotiated pursuant to the provisions of this section OR SECTION 39-30-107.5, C.R.S.

SECTION 5. 39-30-107.5 (1), Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended to read:

39-30-107.5. Taxable property valuations - sales taxes - incentives. (1) Notwithstanding any law to the contrary, any county, municipality, or city and county within an enterprise zone may negotiate with any taxpayer who qualifies for a credit pursuant to section 39-30-105 for an incentive payment OR CREDIT equal to not more than the amount of the taxes levied upon the taxable property of the taxpayer; but in no instance shall any such negotiation result in such an incentive payment OR CREDIT which is greater than the difference between the current property tax liability and the tax liability for the same property for the year preceding the year in which the enterprise zone was approved.

SECTION 6. Effective date. This act shall take effect January 1, 1995.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 7, 1994