CHAPTER 374

# GOVERNMENT - LOCAL

**HOUSE BILL 13-1206**

BY REPRESENTATIVE(S) DelGrosso, Holbert, Buck, Everett, Gardner, Lawrence, Murray, Nordberg, Saine, Swalm, Waller, Hullinghorst, McNulty, Pabon, Priola, Young, Coram, Duran, Gerou, Ginal, Joshi, Kraft-Tharp, Labuda, Landgraf, May, Melton, Moreno, Pettersen, Rankin, Salazar, Schafer, Williams, Ferrandino;
also SENATOR(S) Scheffel, Baumgardner, Jahn, Renfroe, Cadman, Kefalas, Lundberg, Crowder, Grantham, Heath, King, Lambert, Newell, Tochtrop, Todd, Ulibarri.

# AN ACT

**CONCERNING THE EXPANSION OF A LOCAL GOVERNMENT'S ABILITY TO ENTER INTO A BUSINESS INCENTIVE AGREEMENT WITH A TAXPAYER.**

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

**SECTION 1.** In Colorado Revised Statutes, 30-11-123, **amend** (5); and **add** (1.5) as follows:

**30-11-123. Legislative declaration - counties - new business facilities - expanded or existing business facilities - incentives - limitations - authority to exceed revenue-raising limitations - definitions.** (1.5) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A COUNTY MAY NEGOTIATE AN INCENTIVE PAYMENT OR CREDIT FOR A TAXPAYER THAT HAS AN EXISTING BUSINESS FACILITY LOCATED IN THE COUNTY IF, BASED ON VERIFIABLE DOCUMENTATION, THE COUNTY IS SATISFIED THAT THERE IS A SUBSTANTIAL RISK THAT THE TAXPAYER WILL RELOCATE THE FACILITY OUT OF STATE.

(b) THE DOCUMENTATION REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.5) MUST INCLUDE INFORMATION THAT THE TAXPAYER COULD REASONABLY AND EFFICIENTLY RELOCATE THE FACILITY OUT OF STATE AND THAT AT LEAST ONE OTHER STATE IS BEING CONSIDERED FOR THE RELOCATION. IN ORDER TO BE ELIGIBLE FOR A PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), A TAXPAYER MUST IDENTIFY THE SPECIFIC REASONS WHY THE TAXPAYER IS CONSIDERING LEAVING THE STATE.

(c) A COUNTY SHALL NOT GIVE AN ANNUAL INCENTIVE PAYMENT OR CREDIT

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

UNDER THIS SUBSECTION (1.5) THAT IS GREATER THAN THE AMOUNT OF THE TAXES LEVIED BY THE COUNTY UPON THE TAXABLE PERSONAL PROPERTY LOCATED AT OR WITHIN THE EXISTING BUSINESS FACILITY AND USED IN CONNECTION WITH THE OPERATION OF THE EXISTING BUSINESS FACILITY FOR THE CURRENT PROPERTY TAX YEAR. THE TERM OF AN AGREEMENT MADE PURSUANT TO THIS SUBSECTION (1.5) SHALL NOT EXCEED TEN YEARS, AND THIS LIMIT INCLUDES ANY RENEWALS OF THE ORIGINAL AGREEMENT. A COUNTY SHALL NOT GIVE AN ANNUAL INCENTIVE PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), UNLESS THE BOARD OF COUNTY COMMISSIONERS APPROVES THE PAYMENT OR CREDIT AT A PUBLIC HEARING.

(5) Any county ~~which~~ THAT negotiates any agreement pursuant to the provisions of this section shall inform any municipality ~~and any school district~~ in which a new business facility would be located, or an EXISTING OR expanded business facility is located, whichever is applicable, of such negotiations.

**SECTION 2.** In Colorado Revised Statutes, 31-15-903, **amend** (4); and **add** (1.5) as follows:

**31-15-903. Legislative declaration - municipalities - new business facilities - expanded or existing business facilities - incentives - limitations - authority to exceed revenue-raising limitation.** (1.5) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A MUNICIPALITY MAY NEGOTIATE AN INCENTIVE PAYMENT OR CREDIT FOR A TAXPAYER THAT HAS AN EXISTING BUSINESS FACILITY LOCATED IN THE MUNICIPALITY IF, BASED ON VERIFIABLE DOCUMENTATION, THE MUNICIPALITY IS SATISFIED THAT THERE IS A SUBSTANTIAL RISK THAT THE TAXPAYER WILL RELOCATE THE FACILITY OUT OF STATE.

(b) THE DOCUMENTATION REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.5) MUST INCLUDE INFORMATION THAT THE TAXPAYER COULD REASONABLY AND EFFICIENTLY RELOCATE THE FACILITY OUT OF STATE AND THAT AT LEAST ONE OTHER STATE IS BEING CONSIDERED FOR THE RELOCATION. IN ORDER TO BE ELIGIBLE FOR A PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), A TAXPAYER MUST IDENTIFY THE SPECIFIC REASONS WHY THE TAXPAYER IS CONSIDERING LEAVING THE STATE.

(c) A MUNICIPALITY SHALL NOT GIVE AN ANNUAL INCENTIVE PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5) THAT IS GREATER THAN THE AMOUNT OF THE TAXES LEVIED BY THE MUNICIPALITY UPON THE TAXABLE PERSONAL PROPERTY LOCATED AT OR WITHIN THE EXISTING BUSINESS FACILITY AND USED IN CONNECTION WITH THE OPERATION OF THE EXISTING BUSINESS FACILITY FOR THE CURRENT PROPERTY TAX YEAR. THE TERM OF AN AGREEMENT MADE PURSUANT TO THIS SUBSECTION (1.5) SHALL NOT EXCEED TEN YEARS, AND THIS LIMIT INCLUDES ANY RENEWALS OF THE ORIGINAL AGREEMENT. A MUNICIPALITY SHALL NOT GIVE AN ANNUAL INCENTIVE PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), UNLESS THE GOVERNING BODY OF THE MUNICIPALITY APPROVES THE PAYMENT OR CREDIT AT A PUBLIC HEARING.

(4) Any municipality ~~which~~ THAT negotiates any agreement pursuant to the provisions of this section shall inform any county ~~and any school district~~ in which a new business facility would be located, or an EXISTING OR expanded business facility is located, whichever is applicable, of such negotiations.

**SECTION 3.** In Colorado Revised Statutes, 32-1-1702, **amend** (4); and **add** (1.5) as follows:

**32-1-1702. New business facilities - expanded or existing business facilities - incentives - limitations - authority to exceed revenue-raising limitation.** (1.5) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A SPECIAL DISTRICT MAY NEGOTIATE AN INCENTIVE PAYMENT OR CREDIT FOR A TAXPAYER THAT HAS AN EXISTING BUSINESS FACILITY LOCATED IN THE SPECIAL DISTRICT IF, BASED ON VERIFIABLE DOCUMENTATION, THE SPECIAL DISTRICT IS SATISFIED THAT THERE IS A SUBSTANTIAL RISK THAT THE TAXPAYER WILL RELOCATE THE FACILITY OUT OF STATE.

(b) THE DOCUMENTATION REQUIRED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.5) MUST INCLUDE INFORMATION THAT THE TAXPAYER COULD REASONABLY AND EFFICIENTLY RELOCATE THE FACILITY OUT OF STATE AND THAT AT LEAST ONE OTHER STATE IS BEING CONSIDERED FOR THE RELOCATION. IN ORDER TO BE ELIGIBLE FOR A PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), A TAXPAYER MUST IDENTIFY THE SPECIFIC REASONS WHY THE TAXPAYER IS CONSIDERING LEAVING THE STATE.

(c) A SPECIAL DISTRICT SHALL NOT GIVE AN ANNUAL INCENTIVE PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5) THAT IS GREATER THAN THE AMOUNT OF THE TAXES LEVIED BY THE SPECIAL DISTRICT UPON THE TAXABLE PERSONAL PROPERTY LOCATED AT OR WITHIN THE EXISTING BUSINESS FACILITY AND USED IN CONNECTION WITH THE OPERATION OF THE EXISTING BUSINESS FACILITY FOR THE CURRENT PROPERTY TAX YEAR. THE TERM OF AN AGREEMENT MADE PURSUANT TO THIS SUBSECTION (1.5) SHALL NOT EXCEED TEN YEARS, AND THIS LIMIT INCLUDES ANY RENEWALS OF THE ORIGINAL AGREEMENT. A SPECIAL DISTRICT SHALL NOT GIVE AN ANNUAL INCENTIVE PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), UNLESS THE BOARD OF THE SPECIAL DISTRICT APPROVES THE PAYMENT OR CREDIT AT A PUBLIC HEARING.

(4) A special district that negotiates an agreement pursuant to the provisions of this section shall inform any municipality AND county ~~and school district~~ in which a new business facility would be located, or an EXISTING OR expanded business facility is located, whichever is applicable, of such negotiations.

**SECTION 4. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 5, 2013