

CHAPTER 337

GOVERNMENT - STATE

HOUSE BILL 06-1017

BY REPRESENTATIVE(S) Hall, Berens, Butcher, Carroll M., Crane, Gallegos, Jahn, Kerr A., Kerr J., Marshall, Massey, McCluskey, Merrifield, Paccione, Riesberg, Solano, Sullivan, Todd, Witwer, Coleman, and Stafford;
also SENATOR(S) Veiga, Spence, Boyd, Evans, Fitz-Gerald, Isgar, Keller, Owen, Shaffer, Tapia, Tupa, and Williams.

AN ACT

CONCERNING THE CREATION OF A PERFORMANCE-BASED INCENTIVE FOR EMPLOYERS THAT CREATE HIGH QUALITY NEW JOBS IN THE STATE, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Part 1 of article 46 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-46-105.7. Performance-based incentive for new job creation - new jobs incentives cash fund - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EMPLOYEE" MEANS A FULL-TIME EMPLOYEE HIRED TO FILL A NEW JOB.

(b) "NEW JOB" MEANS A FULL-TIME JOB CREATED IN THE STATE BY AN EMPLOYER FOR WHICH AN EMPLOYEE IS HIRED AND THAT IS IN ADDITION TO THE AVERAGE NUMBER OF FULL-TIME JOBS THAT THE EMPLOYER PROVIDED IN THE STATE DURING THE THREE YEARS PRECEDING THE DATE THAT SUCH EMPLOYEE WAS HIRED.

(c) "RURAL AREA" MEANS:

(I) A COUNTY WITH A POPULATION OF LESS THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS;

(II) A MUNICIPALITY WITH A POPULATION OF LESS THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS, THAT IS LOCATED TEN MILES OR MORE

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

FROM A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS; OR

(III) THE UNINCORPORATED PART OF A COUNTY LOCATED TEN MILES OR MORE FROM A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS.

(d) "URBAN AREA" MEANS:

(I) A COUNTY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS;

(II) A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS, OR A MUNICIPALITY WITH A POPULATION OF LESS THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS, THAT IS LOCATED LESS THAN TEN MILES FROM A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS; OR

(III) THE UNINCORPORATED PART OF A COUNTY LOCATED LESS THAN TEN MILES FROM A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND PEOPLE, ACCORDING TO THE MOST RECENTLY AVAILABLE POPULATION STATISTICS OF THE UNITED STATES BUREAU OF THE CENSUS.

(2) SUBJECT TO THE PROVISIONS OF THIS SECTION, ON OR AFTER JANUARY 1, 2006, BUT PRIOR TO JANUARY 1, 2011, ANY EMPLOYER IN A RURAL AREA THAT CREATES AT LEAST FIVE NEW JOBS WITHIN ONE MONTH AND ANY EMPLOYER IN AN URBAN AREA THAT CREATES AT LEAST TEN NEW JOBS WITHIN ONE MONTH BY OPENING A NEW BUSINESS OR EXPANDING OR RELOCATING AN EXISTING BUSINESS SHALL BE ALLOWED TO CLAIM A PERFORMANCE-BASED INCENTIVE FOR EVERY NEW JOB CREATED SO LONG AS THE EMPLOYER MAINTAINS ALL OF THE NEW JOBS FOR AT LEAST ONE YEAR. AN EMPLOYER SHALL BE ALLOWED TO INCLUDE A NEW JOB IN THE CALCULATION OF THE NUMBER OF NEW JOBS CREATED ONE TIME. THE AMOUNT OF THE INCENTIVE SHALL BE AS FOLLOWS:

(a) IF THE AVERAGE WAGE FOR ALL NEW JOBS CREATED BY THE EMPLOYER FOR WHICH THE PERFORMANCE-BASED INCENTIVE IS CLAIMED IS ONE HUNDRED TEN PERCENT OR MORE BUT LESS THAN ONE HUNDRED FIFTEEN PERCENT OF THE AVERAGE WAGE IN THE COUNTY IN WHICH THE NEW JOBS ARE CREATED, THE EMPLOYER SHALL BE ALLOWED AN INCENTIVE IN THE AMOUNT OF ONE THOUSAND DOLLARS FOR EVERY NEW JOB CREATED.

(b) IF THE AVERAGE WAGE FOR ALL NEW JOBS CREATED BY THE EMPLOYER FOR WHICH THE PERFORMANCE-BASED INCENTIVE IS CLAIMED IS ONE HUNDRED FIFTEEN PERCENT OR MORE BUT LESS THAN ONE HUNDRED TWENTY PERCENT OF THE

AVERAGE WAGE IN THE COUNTY IN WHICH THE NEW JOBS ARE CREATED, THE EMPLOYER SHALL BE ALLOWED AN INCENTIVE IN THE AMOUNT OF ONE THOUSAND TWO HUNDRED FIFTY DOLLARS FOR EVERY NEW JOB CREATED.

(c) IF THE AVERAGE WAGE FOR ALL NEW JOBS CREATED BY THE EMPLOYER FOR WHICH THE PERFORMANCE-BASED INCENTIVE IS CLAIMED IS ONE HUNDRED TWENTY PERCENT OR MORE OF THE AVERAGE WAGE IN THE COUNTY IN WHICH THE NEW JOBS ARE CREATED, THE EMPLOYER SHALL BE ALLOWED AN INCENTIVE IN THE AMOUNT OF ONE THOUSAND FIVE HUNDRED DOLLARS FOR EVERY NEW JOB CREATED.

(3) AN EMPLOYER THAT QUALIFIES TO CLAIM A PERFORMANCE-BASED INCENTIVE FOR NEW JOBS CREATED PURSUANT TO THIS SECTION AND THAT QUALIFIES FOR AN INCOME TAX CREDIT PURSUANT TO SECTION 39-30-105, C.R.S., SHALL BE ALLOWED TO CLAIM BOTH THE INCENTIVE ALLOWED PURSUANT TO THIS SECTION AND THE CREDIT ALLOWED PURSUANT TO SECTION 39-30-105, C.R.S.

(4)(a) IN ORDER FOR AN EMPLOYER TO CLAIM A PERFORMANCE-BASED INCENTIVE FOR NEW JOBS CREATED PURSUANT TO THIS SECTION, THE EMPLOYER SHALL SUBMIT AN INCENTIVE APPLICATION TO THE COMMISSION. THE APPLICATION SHALL BE SUBMITTED ON A FORM CREATED BY THE COMMISSION AND SHALL INCLUDE THE NAME OF THE EMPLOYER CLAIMING THE INCENTIVE, VERIFICATION OF THE NUMBER OF NEW JOBS THAT THE EMPLOYER CREATED, THE AVERAGE WAGE OF ALL NEW JOBS THAT THE EMPLOYER CREATED, THE NUMBER OF INCENTIVES CLAIMED BY THE EMPLOYER, THE TOTAL AMOUNT OF THE INCENTIVES CLAIMED BY THE EMPLOYER, AND ANY OTHER INFORMATION DEEMED NECESSARY BY THE COMMISSION.

(b) THE COMMISSION SHALL REVIEW EACH APPLICATION SUBMITTED, DETERMINE WHETHER THE EMPLOYER IS ELIGIBLE TO RECEIVE A PERFORMANCE-BASED INCENTIVE, DETERMINE THE AMOUNT OF THE INCENTIVE DUE TO EACH EMPLOYER ELIGIBLE TO RECEIVE AN INCENTIVE, AND ISSUE THE INCENTIVE PAYMENT TO EACH EMPLOYER THAT IS ELIGIBLE TO RECEIVE THE INCENTIVE, SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (6) OF THIS SECTION.

(c) THE COMMISSION SHALL DEVELOP PROCEDURES FOR THE ADMINISTRATION OF THIS SECTION, INCLUDING ESTABLISHING DEADLINES FOR EMPLOYERS TO CLAIM PERFORMANCE-BASED INCENTIVES AND FOR THE COMMISSION TO ISSUE PAYMENT OF THE INCENTIVES PURSUANT TO THIS SECTION. IN ADDITION, THE COMMISSION SHALL DEVELOP PROCEDURES FOR ANY EMPLOYER THAT CLAIMS AN INCENTIVE FOR NEW JOBS CREATED PURSUANT TO THIS SECTION TO DETERMINE THE NUMBER OF NEW JOBS CREATED AND TO VERIFY THAT THE AVERAGE WAGE FOR THE NEW JOBS FOR WHICH THE INCENTIVE IS CLAIMED IS THE APPLICABLE PERCENTAGE ABOVE THE AVERAGE WAGE IN THE COUNTY IN WHICH THE NEW JOBS ARE CREATED, BASED ON THE MOST RECENT STATISTICS AVAILABLE FROM THE DEPARTMENT OF LABOR AND EMPLOYMENT.

(5) ON OR BEFORE MARCH 1, 2007 AND ON OR BEFORE MARCH 1 OF EACH YEAR THEREAFTER, THE COMMISSION SHALL REPORT TO THE BUSINESS AFFAIRS AND LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE BUSINESS AFFAIRS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, REGARDING THE PERFORMANCE-BASED INCENTIVES AWARDED PURSUANT TO THIS SECTION. THE REPORT SHALL INCLUDE BUT NEED NOT BE LIMITED TO THE NUMBER

OF EMPLOYERS THAT CLAIMED THE PERFORMANCE-BASED INCENTIVE PURSUANT TO THIS SECTION AND THE TOTAL AMOUNT OF ALL INCENTIVES CLAIMED DURING THE MOST RECENT FISCAL YEAR FOR WHICH SUCH INFORMATION IS AVAILABLE.

(6) THE TOTAL AMOUNT OF PERFORMANCE-BASED INCENTIVES THAT THE COMMISSION ISSUES PURSUANT TO THIS SECTION IN ANY FISCAL YEAR SHALL NOT EXCEED THE AMOUNT APPROPRIATED TO THE COMMISSION TO BE USED FOR THE PURPOSES OF THIS SECTION IN THE APPLICABLE FISCAL YEAR. IF THE COMMISSION RECEIVES APPLICATIONS FOR INCENTIVES THAT EXCEED THE AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE FISCAL YEAR, THE COMMISSION SHALL ISSUE INCENTIVES TO APPLICANTS IN THE ORDER IN WHICH THE COMMISSION RECEIVED THE APPLICATIONS UNTIL THE AMOUNT APPROPRIATED HAS BEEN EXPENDED.

(7) (a) THE COMMISSION SHALL NOT ALLOW ANY EMPLOYER THAT HAS BEEN APPROVED TO RECEIVE A PERFORMANCE-BASED INCENTIVE FOR THE CREATION OF NEW JOBS PRIOR TO THE EFFECTIVE DATE OF THIS SECTION TO CLAIM AN INCENTIVE PURSUANT TO THIS SECTION FOR THE SAME JOBS FOR WHICH THE PREVIOUS INCENTIVE WAS APPROVED.

(b) IN APPROVING AN EMPLOYER TO RECEIVE A PERFORMANCE-BASED INCENTIVE FOR THE CREATION OF NEW JOBS ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION MAY, IN ITS DISCRETION, ALLOW ANY EMPLOYER TO CLAIM AN INCENTIVE PURSUANT TO THIS SECTION IN ADDITION TO ANY OTHER INCENTIVE OFFERED BY THE COMMISSION.

(8) OF THE TOTAL AMOUNT APPROPRIATED BY THE GENERAL ASSEMBLY TO THE COMMISSION TO BE USED FOR THE PURPOSES OF THIS SECTION, AN AMOUNT EQUAL TO FIFTEEN PERCENT OF THE AMOUNT APPROPRIATED SHALL BE USED BY THE COMMISSION TO AWARD PERFORMANCE-BASED INCENTIVES PURSUANT TO THIS SECTION TO EMPLOYERS WHO OPEN A NEW BUSINESS OR EXPAND OR RELOCATE AN EXISTING BUSINESS AND CREATE NEW JOBS IN AN ENTERPRISE ZONE THAT IS NOT WITHIN THE BOUNDARIES OF THE COUNTIES OF DENVER, BOULDER, DOUGLAS, ARAPAHOE, JEFFERSON, OR BROOMFIELD.

(9) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE NEW JOBS INCENTIVES CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND SHALL CONSIST OF:

(I) MONEYS TRANSFERRED TO THE FUND IN ACCORDANCE WITH SECTION 12-47.1-701 (4) (a), C.R.S.; AND

(II) ANY MONEYS APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY.

(b) THE MONEYS IN THE FUND SHALL BE ANNUALLY APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE PURPOSES OF THIS SECTION. ALL MONEYS NOT EXPENDED OR ENCUMBERED, AND ALL INTEREST EARNED ON THE INVESTMENT OR DEPOSIT OF MONEYS IN THE FUND, SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND AT THE END OF ANY FISCAL YEAR.

SECTION 2. 24-46-106, Colorado Revised Statutes, is amended to read:

24-46-106. Repeal of part. This part 1 is repealed, effective ~~July 1, 2006~~ JULY 1, 2017.

SECTION 3. Effective date. This act shall take effect upon passage; except that section 1 of this act shall only take effect if House Bill 06-1201 is enacted at the at the Second Regular Session of the Sixty-fifth General Assembly and becomes law.

SECTION 4. 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 5, 2006