

CHAPTER 139

GOVERNMENT - STATE

HOUSE BILL 07-1202

BY REPRESENTATIVE(S) Borodkin, Kefalas, Labuda, McFadyen, Merrifield, Todd, Butcher, Frangas, and Solano;
also SENATOR(S) Romer.

AN ACT**CONCERNING THE ESTABLISHMENT OF CERTAIN REQUIREMENTS FOR RECIPIENTS OF MONEYS FROM
THE COLORADO ECONOMIC DEVELOPMENT FUND.**

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

SECTION 1. 24-46-104 (2), Colorado Revised Statutes, is amended to read:

24-46-104. Powers and duties of commission. (2) The commission shall report to the general assembly no later than February 1 of each year regarding the work of the commission. THE REPORT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE INFORMATION REQUIRED TO BE COLLECTED BY THE COMMISSION PURSUANT TO SECTION 24-46-105.1.

SECTION 2. The introductory portion to 24-46-105 (2.5) (a) and 24-46-105 (2.5) (b), Colorado Revised Statutes, are amended, and the said 24-46-105 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-46-105. Colorado economic development fund - creation. (2.5) (a) The moneys in the fund may be used by the commission to make grants or loans to both public and private persons and entities for use in carrying out the purposes of this part 1, subject to the provisions of paragraph (b) of this subsection (2.5) and ~~subsection (3)~~ SUBSECTIONS (3) AND (4) of this section. In determining whether to make a grant or loan, the commission shall consider each of the following guidelines:

(b) The commission may establish whatever terms and conditions it deems appropriate in making grants or loans pursuant to this section; EXCEPT THAT THE TERMS AND CONDITIONS ESTABLISHED BY THE COMMISSION SHALL MEET OR EXCEED THE REQUIREMENTS ESTABLISHED IN SUBSECTION (4) OF THIS SECTION FOR A GRANT

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

OR LOAN AWARDED IN PART OR IN WHOLE BASED ON A PRIVATE PERSON'S OR ENTITY'S CREATION OF FULL-TIME PERMANENT NEW JOBS IN THE STATE. The loan amount and any interest earned thereon shall be paid back to the commission, and such moneys shall be credited to a special account in the fund to be known as the revolving account. In accordance with subsection (2) of this section, interest earned on the investment or deposit of moneys in the economic development fund shall also be credited to the revolving account. All moneys in the revolving account may be used by the commission to make loans and grants as provided in this subsection (2.5) without further appropriation by the general assembly. The commission shall not approve grants or loans to state departments or agencies for specific projects which are typically considered by the general assembly in the general appropriation bill or in supplemental appropriation bills unless the joint budget committee approves the application for such grants or loans.

(4) (a) THE COMMISSION SHALL AWARD A GRANT OR LOAN FROM MONEYS IN THE FUND BASED IN PART OR IN WHOLE ON A PRIVATE PERSON'S OR ENTITY'S CREATION OF FULL-TIME PERMANENT NEW JOBS IN THE STATE, ONLY IF THE PERSON OR ENTITY:

(I) PAYS ALL OF ITS NEW EMPLOYEES HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4) A MINIMUM WAGE AS DETERMINED BY THE COMMISSION;

(II) CREATES ONE OR MORE NEW JOBS AND MAINTAINS THE JOBS FOR AT LEAST ONE YEAR; AND

(III) (A) HAS NOT BEEN ADJUDICATED TO BE IN VIOLATION OF ANY FEDERAL, STATE, OR LOCAL LAWS AFFECTING THE HEALTH, SAFETY, OR WORKING CONDITIONS OF EMPLOYEES FOR AT LEAST THE PRIOR FIVE YEARS, AS CERTIFIED BY THE PERSON OR ENTITY; OR

(B) HAS BEEN ADJUDICATED TO BE IN VIOLATION OF A FEDERAL, STATE, OR LOCAL LAW AFFECTING THE HEALTH, SAFETY, OR WORKING CONDITIONS OF EMPLOYEES WITHIN FIVE YEARS OF APPLYING FOR A GRANT OR LOAN PURSUANT TO THIS SECTION, BUT CAN PROVIDE EVIDENCE TO THE COMMISSION THAT IT HAS CORRECTED THE VIOLATION OR HAS TAKEN STEPS TO CORRECT THE VIOLATION AND CAN PROVIDE AN ESTIMATED DATE BY WHICH THE VIOLATION WILL BE CORRECTED.

(b) THE PROVISIONS OF THIS SUBSECTION (4) DO NOT APPLY TO THE FOLLOWING:

(I) A NONPROFIT ENTITY; OR

(II) AN INTERN OR TRAINEE WHO IS UNDER THE AGE OF TWENTY-ONE AND WHO IS EMPLOYED FOR A PERIOD OF NOT LONGER THAN THREE MONTHS.

(c) NO PERSON OR ENTITY SHALL PAY AN EMPLOYEE THROUGH A THIRD PARTY OR TREAT AN EMPLOYEE AS A SUBCONTRACTOR OR INDEPENDENT CONTRACTOR TO AVOID THE REQUIREMENTS OF THIS SUBSECTION (4). THE PROVISIONS OF THIS PARAGRAPH (c) SHALL NOT APPLY TO A PERSON OR ENTITY THAT HIRES SUBCONTRACTORS OR INDEPENDENT CONTRACTORS IN THE NORMAL COURSE OF THE PERSON'S OR ENTITY'S BUSINESS.

SECTION 3. Part 1 of article 46 of title 24, Colorado Revised Statutes, is

amended BY THE ADDITION OF A NEW SECTION to read:

24-46-105.1. Reporting requirement - new jobs created. (1) EVERY PRIVATE PERSON OR ENTITY THAT RECEIVES A GRANT OR LOAN FROM THE COMMISSION PURSUANT TO THIS ARTICLE, AWARDED IN PART OR IN WHOLE ON THE BASIS OF THE PERSON'S OR ENTITY'S CREATION OF FULL-TIME PERMANENT NEW JOBS WITH WAGE REQUIREMENTS SHALL FILE A PROGRESS REPORT WITH THE COMMISSION. THE PROGRESS REPORT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING:

(a) THE NAME OF THE PERSON OR ENTITY THAT RECEIVED THE GRANT OR LOAN AND, IF THE RECIPIENT IS AN ENTITY, THE NAME OF THE CHIEF OFFICER OF THE ENTITY;

(b) THE BUSINESS ADDRESS AND BUSINESS PHONE NUMBER OF THE PERSON OR ENTITY THAT RECEIVED THE GRANT OR LOAN;

(c) THE AMOUNT OF THE GRANT OR LOAN AWARDED TO THE PERSON OR ENTITY BY THE COMMISSION;

(d) A STATEMENT OF THE NUMBER OF NEW FULL-TIME PERMANENT JOBS THAT THE PERSON OR ENTITY THAT RECEIVED THE GRANT OR LOAN HAS CREATED TO DATE;

(e) PAYROLL OR OTHER DATA TO VERIFY THE NUMBER OF NEW JOBS CREATED BY THE PERSON OR ENTITY;

(f) THE AVERAGE ANNUAL COMPENSATION LEVEL OF NEW FULL-TIME PERMANENT EMPLOYEES OF THE NEW JOBS CREATED;

(g) A STATEMENT AS TO WHETHER THE PERSON OR ENTITY THAT RECEIVED THE GRANT OR LOAN REDUCED EMPLOYMENT AT ANY OTHER SITE CONTROLLED BY THE PERSON OR ENTITY IN THE STATE AS A RESULT OF AUTOMATION, MERGER, ACQUISITION, CORPORATE RESTRUCTURING, OR OTHER BUSINESS ACTIVITY; AND

(h) ANY OTHER INFORMATION REASONABLY REQUIRED BY THE COMMISSION TO EVALUATE THE PROGRESS OF THE PERSON OR ENTITY THAT RECEIVED THE GRANT OR LOAN AND THE EFFECTIVENESS OF AWARDED THE GRANT OR LOAN.

(2) THE PROGRESS REPORT SUBMITTED TO THE COMMISSION SHALL INCLUDE A SIGNED CERTIFICATION BY THE PRIVATE PERSON WHO RECEIVED THE GRANT OR LOAN OR, IF THE RECIPIENT IS A PRIVATE ENTITY, THE CHIEF OFFICER OF THE ENTITY THAT RECEIVED THE GRANT OR LOAN AS TO THE ACCURACY OF THE PROGRESS REPORT.

(3) ANY PRIVATE PERSON OR ENTITY THAT RECEIVES A GRANT OR LOAN PURSUANT TO THIS ARTICLE BASED IN PART OR IN WHOLE ON THE PERSON'S OR ENTITY'S CREATION OF FULL-TIME PERMANENT NEW JOBS IN THE STATE SHALL FILE THE PROGRESS REPORT REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION NO LATER THAN ONE YEAR AND ONE HUNDRED TWENTY DAYS AFTER THE JOBS HAVE BEEN CREATED.

(4) THE COMMISSION SHALL INCLUDE THE INFORMATION COLLECTED EACH YEAR PURSUANT TO SUBSECTION (1) OF THIS SECTION IN THE COMMISSION'S REPORT TO THE

GENERAL ASSEMBLY PURSUANT TO SECTION 24-46-104 (2). THE COMMISSION'S REPORT SHALL ALSO INCLUDE A STATEMENT AS TO WHETHER THE PRIVATE PERSON OR ENTITY THAT RECEIVED THE GRANT OR LOAN HAS ACHIEVED THE PERSON'S OR ENTITY'S JOB CREATION AND WAGE REQUIREMENT.

(5) THE COMMISSION SHALL INFORM A PRIVATE PERSON OR ENTITY THAT RECEIVES A GRANT OR LOAN BASED IN PART OR IN WHOLE ON THE PERSON'S OR ENTITY'S CREATION OF FULL-TIME PERMANENT NEW JOBS IN THE STATE THAT THE PERSON OR ENTITY IS REQUIRED TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION AT THE TIME THE COMMISSION AWARDS THE GRANT OR LOAN.

SECTION 4. Applicability. The provisions of this act shall apply to grants or loans made by the Colorado economic development commission on or after the applicable effective date of this act.

SECTION 5. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 16, 2007