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An Act Regarding the Maine Economic Development Evaluation

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §13056-B, as enacted by PL 2007, c. 434, §2, is amended to read:

§ 13056-B. Reporting requirements of recipients of economic development funding

To assist the department in preparing the comprehensive economic development evaluation pursuant to section 13056-A, a recipient of state economic development funding, including General Fund appropriations, dedicated revenue, tax expenditures as defined by section 1666 and general obligation bond proceeds for economic development, shall, in addition to any other reporting requirements required by law, collect, maintain and provide data as requested by the department.

Sec. 2. 5 MRSA §13058, sub-§5, as amended by PL 1999, c. 776, §§4 and 5, is further amended to read:

5. Review of program; report to Governor and Legislature. The commissioner shall review and evaluate the programs and functions of the department and the operation of the economic delivery system, with the information obtained from the economic development evaluation pursuant to section 13056-A. ~~The Maine Small Business Commission, as established in section 13032, shall conduct the evaluation and review required by this section with respect to small business programs.~~ The commissioner shall report the commissioner's findings and recommendations with respect to the issues described in this subsection to the Governor and to the Legislature no later than February 1st of each first regular session of the Legislature. The commissioner shall conduct the review and evaluation with respect to the following:

- A. The purpose of these programs and the degree to which the purpose is being met;
- B. The degree of significance of the purpose of the programs and functions of the department;
- C. The extent of the coordination of programs and services as required in subsection 4;
- D. The needs, problems and opportunities that are not being met by the programs and services of the department;
- E. The types of programs and services necessary to meet the needs, problems and opportunities as set out in paragraph D;
- F. The problems and successes in the economic delivery system;
- G. The state of small business in this State, including economic data, the effectiveness of state programs to aid small business, problems of small business that may be affected by state policies and such other information on small business as desired by the commissioner;

H. Within available resources, the extent of business growth and change, including business expansions, new businesses and business closings;

I. Within available resources, the status of investments in business in the State; and

J. The extent to which the purposes of the Maine Downtown Center are being met.

Sec. 3. 5 MRSA §13063-O, sub-§1, as enacted by PL 2003, c. 451, Pt. MMM, §1, is amended to read:

1. Accounting and reporting requirements. The department shall:

A. Maintain an accurate accounting of the use of all program funds as required by state procedures and program guidelines, including a detailed accounting of all program funding sources and expenditures; and

~~B. Undertake an ongoing process to evaluate the impact of the projects undertaken with program funds. The evaluation process must include benchmarks and criteria to evaluate the success of the fund. The benchmarks and criteria must be designed by the department to provide the following:~~

~~(1) An assessment of the direct and indirect economic impact of the funded projects; and~~

~~(2) An assessment of the contribution of the fund to the creation of new entrepreneurial opportunities; and~~

C. Each year, submit a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report must include:

(1) An accounting of the use of all program funds received and expended since the program's inception;

(2) A summary of the status of any approved projects;

(3) A summary of the results of any completed projects;

(4) Evaluation data and assessment; and

(5) Other information required to be submitted and evaluated by the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters.

Sec. 4. 5 MRSA §13070-J, sub-§1, ¶D, as amended by PL 2005, c. 519, Pt. TTT, §1, is further amended to read:

D. "Economic development incentive" means federal and state statutorily defined programs that receive state funds, dedicated revenue funds and tax expenditures as defined by section 1666, whose purposes are to create, attract or retain business entities related to business development in the State, including but not limited to the following:

- (1) Assistance from Maine Quality Centers under Title 20-A, chapter 431-A;
- (2) The Governor's Training Initiative Program under Title 26, chapter 25, subchapter 4;
- (3) Municipal tax increment financing under Title 30-A, chapter 206;
- (4) The jobs and investment tax credit under Title 36, section 5215;
- (5) The research expense tax credit under Title 36, section 5219-K;
- (6) Reimbursement for taxes paid on certain business property under Title 36, chapter 915;
- (7) Employment tax increment financing under Title 36, chapter 917;
- (8) The shipbuilding facility credit under Title 36, chapter 919;
- (9) The credit for seed capital investment under Title 36, section 5216-B; or
- (10) The credit for pollution-reducing boilers under Title 36, section 5219-Z.

Sec. 5. 5 MRSA §13070-J, sub-§3, as amended by PL 2001, c. 710, §3 and affected by §4, is repealed.

Sec. 6. 5 MRSA §13070-J, sub-§4, ¶D, as amended by PL 2001, c. 642, §3 and affected by §12, is repealed.

Sec. 7. 5 MRSA §13070-J, sub-§4, ¶E, as amended by PL 2001, c. 481, §2, is further amended to read:

E. The department shall report by ~~October~~January 1st annually to the State Tax Assessor a listing of businesses that have failed to submit ~~reports~~information required under ~~subsection 3~~section 13056-B. The report must document that each business included in the report was provided with reasonable official notification of its noncompliance and that its failure to submit the required ~~report~~information within 30 days would result in the withholding and potential forfeiture of reimbursements for which the business may be eligible under Title 36, chapter 915. The notification must be in the form of a

letter posted by certified mail before ~~August~~October 15th of the reporting year. If the department subsequently receives a ~~report~~the information from the business, the department shall so notify the State Tax Assessor.

Sec. 8. 5 MRSA §13070-J, sub-§4, ¶F, as enacted by PL 1999, c. 768, §2, is amended to read:

F. Prior to any forfeiture of benefits under Title 36, section 6652, subsection 3, the department shall make a written determination that the ~~report~~information required by ~~subsection 3~~section 13056-B either has not been received or is not in an acceptable form. A copy of that written determination, including the reasons for the determination, must be mailed to the claimant by certified mail. The determination made by the department constitutes final agency action that is subject to review by the Superior Court in accordance with the Maine Administrative Procedure Act, except that sections 11006 and 11007 do not apply. The Superior Court shall conduct a de novo hearing and make a de novo determination as to whether the claimant has filed a report in substantial compliance with this section. The Superior Court shall make its own determination as to all questions of fact and law. The Superior Court shall enter such orders and decrees as the case may require. In the event that the department's determination is appealed to Superior Court pursuant to this paragraph, forfeiture of the claimant's right to receive reimbursement of taxes under Title 36, chapter 915 may not occur unless the Superior Court, subject to any appeal to the Law Court, finds that the claimant had not substantially complied with the reporting requirements of this section.

Sec. 9. 5 MRSA §13103, sub-§2, ¶G, as amended by PL 2003, c. 50, Pt. B, §1 and affected by §2, is further amended to read:

G. Submit each biennium a report to the Governor, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters. The report must include detailed information on the status of the funds in the Maine Biomedical Research Fund;and a listing and explanation of each specific source of funding from grant sources for biomedical research and its use and the number of new jobs created in the State and where those jobs are located.

Sec. 10. 7 MRSA §309, as amended by PL 1999, c. 72, §6, is further amended to read:

§ 309. Annual review

The commissioner and the Agriculture Development Committee shall, on an annual basis, review the effectiveness of the programs operated under the provisions of this chapter and provide a summary of the review to the Commissioner of Economic and Community Development.

Sec. 11. 36 MRSA §6652, sub-§3, as enacted by PL 1999, c. 768, §6, is amended to read:

3. Withholding for failure to report. Provided that the Department of Economic and Community Development has complied with the notice requirements of Title 5, section 13070-J, subsection 4, paragraph E and the notice required by that provision has been received by the claimant, the State Tax Assessor shall withhold reimbursement under this chapter for a claimant listed by the department pursuant to Title 5, section 13070-J, subsection 4, paragraph E as failing to submit the

~~reports~~information required by Title 5, section ~~13070-J, subsection 3~~13056-B and who, as of the date of the claim for which payment is being withheld, has failed to submit a ~~report~~information that has become due. Upon notification by the department of its receipt of the required ~~report~~information in an acceptable form, the State Tax Assessor shall make the payment that was withheld. The right to receive payment is forfeited if the overdue ~~report~~information is not received in an acceptable form by the department within 180 days following the date the claim for reimbursement was filed, except that a forfeiture may not occur unless and until the following requirements have been satisfied:

A. The assessor has notified the Department of Economic and Community Development, at least 60 days prior to the expiration of the 180 day period, of the date on which that 180 day period will expire;

B. The Department of Economic and Community Development has notified the claimant in writing by certified mail within 15 days of receiving the assessor's notice that the department has made a determination under Title 5, section 13070-J, subsection 4, paragraph F that the ~~report~~information filed by the claimant has not been received or is in unacceptable form and that the right to reimbursement is subject to forfeiture if a ~~report~~the information in acceptable form is not filed within 180 days following the date the claim for reimbursement was filed; and

C. The claimant has either not appealed the determination of the Department of Economic and Community Development to Superior Court within 30 days of receipt by the claimant of the written determination in accordance with Title 5, section 13070-J, subsection 4, paragraph F or the claimant has appealed and the department's determination has been upheld on appeal.

Sec. 12. Report on assessment methods. The Office of Program Evaluation and Government Accountability, in collaboration with the Department of Administrative and Financial Services, Bureau of Revenue Services, shall develop recommendations, including a proposed methodology, for assessing economic development tax expenditures to provide funding for the comprehensive evaluation of state investments in economic development pursuant to the Maine Revised Statutes, Title 5, section 13056-A. By January 1, 2009, the Office of Program Evaluation and Government Accountability shall submit its findings and recommendations in a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters.

SUMMARY

This bill implements the recommendations of the Department of Economic and Community Development relating to streamlining and improving the comprehensive economic development evaluation for the State's economic development programs and incentives. It also reduces duplicative statutory reporting requirements that will be included in the department's comprehensive evaluation process. The bill amends the definition for "economic development incentive."