



128th MAINE LEGISLATURE

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Legislative Document

No. 1245

H.P. 868

House of Representatives, March 30, 2017

An Act To Ensure the Effectiveness of Tax Expenditures

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FECTEAU of Biddeford.

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

2 **Sec. 1. 5 MRSA §13070-P** is enacted to read:

3 **§13070-P. Accountability in economic development**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Corporate parent" means a person that owns or controls at least 50% of a
7 recipient company.

8 B. "Date of subsidy" means the date that a granting body provides the initial
9 monetary value of a development subsidy to a recipient company, except that:

10 (1) If the subsidy is for the installation of new equipment, "date of subsidy"
11 means the date the recipient company puts the equipment into service; and

12 (2) If the subsidy is for improvements to property, "date of subsidy" means the
13 date the improvements are finished or the date the recipient company occupies
14 the property, whichever is earlier.

15 C. "Development subsidy" or "subsidy" means an expenditure of at least \$25,000 in
16 public funds for the purpose of stimulating economic development within the State,
17 including, without limitation, through bonds, grants, loans, loan guarantees, so-called
18 enterprise zones and empowerment zones, pine tree development zones under Title
19 30-A, section 5250-J, tax increment financing, fee waivers, land price subsidies,
20 matching funds, tax abatements, tax exemptions and tax credits.

21 D. "Duration of the development subsidy" means as many years as a subsidy benefits
22 a recipient company, including the number of years a tax credit may be claimed or
23 carried forward, the number of years a loan is for or the number of years a property
24 tax reduction applies.

25 E. "Employment basis" means the total number of full-time and part-time employees
26 employed by a corporate parent in this State on December 31st of the year the
27 development subsidy is first granted.

28 F. "Full-time job" means a job in which an individual is employed by a recipient
29 company for at least 35 hours per week.

30 G. "Granting body" means the State or a local government unit that provides a
31 development subsidy.

32 H. "Local government unit" means a municipality, county, plantation, unorganized
33 territory or Indian tribe.

34 I. "Part-time job" means a job in which an individual is employed by a recipient
35 company for less than 35 hours per week.

36 J. "Project site" means the site of a project for which any development subsidy is
37 provided, as specified by street address, name of locality and zip code.

38 K. "Recipient company" means a person that receives a development subsidy.

1 L. "State" means an agency, board, commission, department, office, public benefit
2 corporation or public benefit authority of the State.

3 **2. Determination of development subsidy subject to recapture or rescission.** A
4 granting body shall compare the number of full-time jobs and part-time jobs created, the
5 wages and benefits paid for those jobs and any other relevant performance data submitted
6 by a recipient company against independent information sources such as unemployment
7 insurance records or shall conduct periodic audits of recipient company submissions
8 using outside auditors to ensure that the recipient company is meeting the objectives of
9 the development subsidy. Based on the comparison of pertinent information or
10 independent audits, if the granting body determines that the recipient company is not
11 meeting the objectives of the development subsidy, the development subsidy is subject to
12 recapture or rescission. A development subsidy is subject to recapture or rescission if the
13 granting body determines that:

14 A. The recipient company has failed to achieve its job creation, wage and health care
15 requirements for the project site within 2 years of the date of subsidy;

16 B. The recipient company has failed to maintain its wage and benefit achievements
17 for as long as the development subsidy is in effect or 5 years, whichever is longer; or

18 C. The corporate parent has failed to maintain in this State for the duration of the
19 development subsidy or 5 years, whichever is longer, at least 90% of its employment
20 basis.

21 **3. Procedure for recapture or rescission.** A development subsidy provided to a
22 recipient company that is determined to have failed to meet the requirements of the
23 development subsidy pursuant to subsection 2 is subject to the following:

24 A. For each year the recipient company fails to meet the obligations for job creation,
25 wages and health care insurance, the value of the subsidy must be reduced on a
26 prorated basis by the same share of jobs that were not created or that failed to meet
27 wage and health care insurance obligations. If the subsidy has already accrued to the
28 recipient company, the State shall recapture the value of the subsidy reduction;

29 B. If a recipient company fails to meet its job creation obligations by 25% or more
30 for 3 consecutive years, the pro rata recapture pursuant to paragraph A applies to the
31 3rd year in default, and the State shall rescind the development subsidy effective
32 January 1st of the following year;

33 C. For each year the corporate parent fails to maintain in this State at least 90% of its
34 employment basis, the subsidy must be reduced at twice the rate of the corporate
35 parent's job loss from 100% of its employment basis. If the subsidy has already
36 accrued to the recipient company, the State shall recapture the value of the subsidy
37 reduction; and

38 D. If the corporate parent fails to maintain in this State at least 90% of its
39 employment basis for 3 consecutive years, the pro rata recapture pursuant to
40 paragraph C applies to the 3rd year in default, and the development subsidy must be
41 rescinded effective January 1st of the following year.

