

1 SB322  
2 206368-1  
3 By Senator Ward  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 12-MAR-20

SYNOPSIS: Under existing law (Act 2019-374), certain employers relocating call centers are required to notify the state within a specified time frame prior to relocation.

This bill would define certain terms used in existing law and would require employers relocating call centers to notify the Secretary of the Alabama Department of Commerce of the relocation rather than the Director of the Alabama Department of Economic and Community Affairs.

This bill would also limit the amount of civil penalties assessed to an employer.

This bill would be retroactive to September 1, 2019, which was the effective date of Act 2019-374.

A BILL  
TO BE ENTITLED  
AN ACT

1           Relating to call centers; to amend Sections 1, 2,  
2           and 6 of Act 2019-374, 2019 Regular Session, now appearing as  
3           Sections 41-23-230, 41-23-231, and 41-23-235, Code of Alabama  
4           1975, to define certain terms; to require employers relocating  
5           call centers to notify the Secretary of the Alabama Department  
6           of Commerce of the relocation rather than the Director of the  
7           Alabama Department of Economic and Community Affairs; to limit  
8           the amount of civil penalties assessed to an employer; and to  
9           provide for retroactive effect to September 1, 2019.

10          BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11                 Section 1. Sections 1, 2, and 6 of Act 2019-374,  
12                 2019 Regular Session, now appearing as Sections 41-23-230,  
13                 41-23-231, and 41-23-235, Code of Alabama 1975, are amended to  
14                 read as follows:

15                         "§41-23-230.

16                         "For the purposes of this article, the following  
17                         words shall have the following meanings:

18                         "(1) CALL CENTER. A physical location within the  
19                         State of Alabama at which the predominant activity conducted  
20                         at the location is described by NAICS Code 561422 and at which  
21                         50 or more individuals are employed to conduct that activity  
22                         ~~receive by telephone, email, or other electronic forms of~~  
23                         ~~communication requests for service and repairs and assist with~~  
24                         ~~a resolution. The term does not include locations within this~~  
25                         ~~state at which similar calls are resolved in whole or in part~~  
26                         ~~by means of computers, including, but not limited to,~~

1 ~~artificial intelligence.~~ The term also does not include data  
2 centers.

3 "(2) CONTRACT. An economic development agreement  
4 between an employer and the state or a political subdivision  
5 of the state that directly provides the employer with a grant,  
6 loan, or tax credit as an incentive to locate a call center in  
7 Alabama.

8 ~~"(2)(3) DIRECTOR. The Director of the Department of~~  
9 ~~Economic and Community Affairs~~ Secretary of the Department of  
10 Commerce.

11 ~~"(3)(4) EMPLOYER. A call center that~~ has received a  
12 grant, loan, or tax credit from the state or any political  
13 subdivision of the state and employs either of the following:

14 "a. Fifty or more individuals, excluding part-time  
15 employees.

16 "b. Fifty or more individuals who, in the aggregate,  
17 work at least 1,500 hours each week for the employer, not  
18 including overtime hours.

19 "This term does not apply to the State of Alabama or  
20 its agencies or departments.

21 "(5) GRANT, LOAN, OR TAX CREDIT. An economic  
22 development incentive included in a contract that is directly  
23 related to an employer's call center. This term does not  
24 include any grant, loan, or tax credit that is not directly  
25 related to an employer's call center.

26 ~~"(4)(6) PART-TIME EMPLOYEE. An individual employed~~  
27 ~~for an average of fewer than 20 hours each week or for fewer~~

1 than six of the 12 months before the date on which a  
2 determination to relocate is made.

3 "(7) RELOCATE or RELOCATION. The act of moving a  
4 call center physically located within the State of Alabama to  
5 a location physically located outside the State of Alabama.  
6 This term does not apply to the closure of, or a reduction in  
7 force at, a call center, or one or more facilities or  
8 operating units within a call center, due to reasons other  
9 than relocation.

10 "§41-23-231.

11 "(a) An employer that intends to relocate a call  
12 center, or one or more facilities or operating units within a  
13 call center consisting of at least 30 percent of the call  
14 center's total volume when measured against the previous  
15 12-month average call volume, from this state, shall notify  
16 the director at least 120 days before the relocation is  
17 scheduled to occur if the employer has entered into a contract  
18 for the relocated call center within the five years preceding  
19 the relocation.

20 "(b) If the employer fails to provide notice  
21 pursuant to subsection (a), the director shall notify the  
22 Attorney General of the failure, and the Attorney General  
23 shall commence an action for assessment of a civil penalty  
24 against the employer in the circuit court in the county where  
25 the employer's call center is located. Upon a finding that an  
26 employer has violated subsection (a), the court shall assess a  
27 civil penalty of not more than ten thousand dollars (\$10,000)

1 against the employer for each day the employer failed to  
2 provide the notice. The assessed civil penalty may not exceed  
3 the value of the unamortized value of any grant, loan, or tax  
4 credit that the employer received from the state or any  
5 political subdivision of the state on or after September 1,  
6 2019.

7 "(c) A court may reduce a civil penalty imposed  
8 under subsection (b) if the court determines that an employer  
9 has shown just cause as to why notification under subsection  
10 (a) was not made in the time frame required.

11 "§41-23-235.

12 "This article may not be construed as permitting the  
13 withholding or denial of payments, compensation, or benefits  
14 from employees. Further, the act adding this amendatory  
15 language shall not be construed to alter or modify, and shall  
16 not have the effect of altering or modifying, the terms of a  
17 contract."

18 Section 2. This act shall become effective  
19 immediately, following its passage and approval by the  
20 Governor, or its otherwise becoming law, and shall be  
21 retroactive to September 1, 2019.