

2014 -- S 2579

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- COMMERCE CORPORATION

Introduced By: Senator William A. Walaska

Date Introduced: March 04, 2014

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-64-20 of the General Laws in Chapter 42-64 entitled
2 "Exemption from taxation" is hereby amended to read as follows:
3 **5-4-1. License required.** -- (a) The exercise of the powers granted by this chapter will be
4 in all respects for the benefit of the people of this state, the increase of their commerce, welfare,
5 and prosperity and for the improvement of their health and living conditions and will constitute
6 the performance of an essential governmental function and the corporation shall not be required
7 to pay any taxes or assessments upon or in respect of any project or of any property or moneys of
8 the Rhode Island COMMERCE CORPORATION, levied by any municipality or political
9 subdivision of the state; provided, that the corporation shall make payments in lieu of real
10 property taxes and assessments to municipalities and political subdivisions with respect to
11 projects of the corporation located in the municipalities and political subdivisions during those
12 times that the corporation derives revenue from the lease or operation of the projects. Payments in
13 lieu of taxes shall be in amounts agreed upon by the corporation and the affected municipalities
14 and political subdivisions. Failing the agreement, the amounts of payments in lieu of taxes shall
15 be determined by the corporation using a formula that shall reasonably ensure that the amounts
16 approximate the average amount of real property taxes due throughout the state with respect to
17 facilities of a similar nature and size. Any municipality or political subdivision is empowered to
18 accept at its option an amount of payments in lieu of taxes less than that determined by the
19 corporation. If, pursuant to § 42-64-13(f), the corporation shall have agreed with a municipality

1 or political subdivision that it shall not provide all of the specified services, the payments in lieu
2 of taxes shall be reduced by the cost incurred by the corporation or any other person in providing
3 the services not provided by the municipality or political subdivision.

4 (b) The corporation shall not be required to pay state taxes of any kind, and the
5 corporation, its projects, property, and moneys and, except for estate, inheritance, and gift taxes,
6 any bonds or notes issued under the provisions of this chapter and the income (including gain
7 from sale or exchange) from these shall at all times be free from taxation of every kind by the
8 state and by the municipalities and all political subdivisions of the state. The corporation shall not
9 be required to pay any transfer tax of any kind on account of instruments recorded by it or on its
10 behalf.

11 (c) For purposes of the exemption from taxes and assessments upon or in respect of any
12 project under subsections (a) or (b) of this section, the corporation shall not be required to hold
13 legal title to any real or personal property, including any fixtures, furnishings or equipment which
14 are acquired and used in the construction and development of the project, but the legal title may
15 be held in the name of a lessee (including sublessees) from the corporation. This property, which
16 shall not include any goods or inventory used in the project after completion of construction, shall
17 be exempt from taxation to the same extent as if legal title of the property were in the name of the
18 corporation; provided that the board of directors of the corporation adopts a resolution confirming
19 use of the tax exemption for the project by the lessee. Such resolution shall not take effect until
20 thirty (30) days from passage. The resolution shall include findings that: (1) the project is a
21 project of the corporation under § 42-64-3(20), and (2) it is in the interest of the corporation and
22 of the project that legal title be held by the lessee from the corporation. In adopting the resolution,
23 the board of directors may consider any factors it deems relevant to the interests of the
24 corporation or the project including, for example, but without limitation, reduction in potential
25 liability or costs to the corporation or designation of the project as a "Project of Critical Economic
26 Concern" pursuant to Chapter 117 of this title.

27 (d) For purposes of the exemption from taxes and assessments for any project of the
28 corporation held by a lessee of the corporation under subsection (c) of this section, any such
29 project shall be subject to the following additional requirements:

30 (1) The total sales tax exemption benefit to the lessee will be implemented through a
31 reimbursement process as determined by the division of taxation rather than an up-front purchase
32 exemption;

33 (2) The sales tax benefits granted pursuant to RIGL 42-64-20(c) shall ~~only apply to~~
34 ~~project approved prior to July 1, 2011 and shall~~: (i) only apply to materials used in the

1 construction, reconstruction or rehabilitation of the project and to the acquisition of furniture,
2 fixtures and equipment, except automobiles, trucks or other motor vehicles, or materials that
3 otherwise are depreciable and have a useful life of one year or more, for the project for a period
4 not to exceed six (6) months after receipt of a certificate of occupancy for any given phase of the
5 project for which sales tax benefits are utilized; and (ii) not exceed an amount equal to the income
6 tax revenue received by the state from the new full-time jobs with benefits excluding project
7 construction jobs, generated by the project within a period of three (3) years from after the receipt
8 of a certificate of occupancy for any given phase of the project. "Full- time jobs with benefits"
9 means jobs that require working a minimum of thirty (30) hours per week within the state, with a
10 median wage that exceeds by five percent (5%) the median annual wage for the preceding year
11 for full-time jobs in Rhode Island, as certified by the department of labor and training with a
12 benefit package that is typical of companies within the lessee's industry. ~~The sales tax benefits~~
13 ~~granted pursuant to Rhode Island general laws subsection 42-64-20(e) shall not be effective for~~
14 ~~projects approved on or after July 1, 2011.~~

15 (3) The corporation shall transmit the analysis required by RIGL 42-64-10(a)(2) to the
16 house and senate fiscal committee chairs, the department of labor and training and the division of
17 taxation promptly upon completion. Annually thereafter, the department of labor and training
18 shall certify to the house and senate fiscal committee chairs, the house and senate fiscal advisors,
19 the corporation and the division of taxation the actual number of new full-time jobs with benefits
20 created by the project, in addition to construction jobs, and whether such new jobs are on target to
21 meet or exceed the estimated number of new jobs identified in the analysis above. This
22 certification shall no longer be required when the total amount of new income tax revenue
23 received by the state exceeds the amount of the sales tax exemption benefit granted above.

24 (4) The department of labor and training shall certify to the house and senate fiscal
25 committee chairs and the division of taxation that jobs created by the project are "new jobs" in the
26 state of Rhode Island, meaning that the employees of the project are in addition to, and without a
27 reduction of, those employees of the lessee currently employed in Rhode Island, are not relocated
28 from another facility of the lessee's in Rhode Island or are employees assumed by the lessee as
29 the result of a merger or acquisition of a company already located in Rhode Island. Additionally,
30 the corporation, with the assistance of the lessee, the department of labor and training, the
31 department of human services and the division of taxation shall provide annually an analysis of
32 whether any of the employees of the project qualify for RIte Care or RIte Share benefits and the
33 impact such benefits or assistance may have on the state budget.

34 (5) Notwithstanding any other provision of law, the division of taxation, the department

1 of labor and training and the department of human services are authorized to present, review and
2 discuss lessee specific tax or employment information or data with the corporation, the house and
3 senate fiscal committee chairs, and/or the house and senate fiscal advisors for the purpose of
4 verification and compliance with this resolution; and

5 (6) The corporation and the project lessee shall agree that, if at any time prior to the state
6 recouping the amount of the sales tax exemption through new income tax collections from the
7 project, not including construction job income taxes, the lessee will be unable to continue the
8 project, or otherwise defaults on its obligations to the corporation, the lessee shall be liable to the
9 state for all the sales tax benefits granted to the project plus interest, as determined in RIGL 44-1-
10 7, calculated from the date the lessee received the sales tax benefits.

11 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO STATE AFFAIRS AND GOVERNMENT -- COMMERCE CORPORATION

1 This act would eliminate the requirement that a construction, reconstruction or
2 rehabilitation project be approved prior to July 1, 2011 to receive sales tax benefits provided
3 pursuant to the sales tax expenses in this section which apply to certain construction materials and
4 fixtures necessary to complete projects approved by the corporation.

5 This act would take effect upon passage.

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