

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

400S0613

HOUSE BILL NO. 1230

Introduced by: The Committee on State Affairs at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the large project development fund, to provide
2 for its administration, and to make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-16G-1.2 be amended to read as follows:

5 1-16G-1.2. The Board of Economic Development may take title by foreclosure to any
6 property given as security if the acquisition is necessary to protect any economic development
7 grant or loan or any large project development grant made under pursuant to the provisions of
8 this chapter, and may sell, transfer, or convey any such property to any responsible buyer. Any
9 sale of property ~~hereunder~~ pursuant to the provisions of this chapter shall be performed in a
10 commercially reasonable manner. If the sale, transfer, or conveyance cannot be effected with
11 reasonable promptness, the board may, in order to prevent financial loss and sustain
12 employment, lease the property to a responsible tenant or tenants.

13 All sale proceeds or lease payments received by the board pursuant to this section shall be
14 deposited in the fund from which the original grant or loan was made.

15 Section 2. That § 1-16G-8 be amended to read as follows:



1 1-16G-8. The Board of Economic Development shall promulgate rules pursuant to chapter
2 1-26 concerning the following:

- 3 (1) The existing barriers to economic growth and development in the state;
- 4 (2) Developing investment in research and development in high technology industries;
- 5 (3) The submission of business plans prior to the approval of economic development
6 grants or loans or large project development grants. Business plans shall include the
7 products or services to be offered by the applicant, job descriptions with attendant
8 salary or wage information by job category, educational requirements by job
9 category, methods of accounting, financing other than that provided by the economic
10 development grant or loan or a large project development grant, and marketing, sales,
11 merchandising, and other disciplines proposed to be used for business growth and
12 expansion;
- 13 (4) The cooperation between agencies of state government and applicant businesses for
14 nonfinancial services including loan packaging, marketing assistance, research
15 assistance, and assistance with finding solutions for complying with environmental,
16 energy, health, safety, and other federal, state, and local laws and regulations;
- 17 (5) Regular performance monitoring and reporting systems for participating businesses
18 to assure compliance with their business plans ~~and~~, terms of repayment of an
19 economic development loan and compliance with terms of an economic development
20 grant or a large project development grant;
- 21 (6) Establish eligibility criteria for grants and loans;
- 22 (7) Establish application procedures for grants and loans, including a requirement that
23 grant and loan applications be signed under penalty of perjury;
- 24 (8) Establish criteria to determine which applicants will receive grants or loans;

- 1 (9) Govern the use of proceeds of grants and loans;
- 2 (10) Establish criteria for the terms and conditions upon which loans shall be made,
3 including matching requirements, interest rates, repayment terms, and the terms of
4 security given to secure such loans; ~~and~~
- 5 (11) Establish criteria for the terms and conditions upon which grants shall be made,
6 including permitted uses, performance criteria, and matching requirements; and
- 7 (12) Establish criteria for the terms and conditions upon which grants shall be repaid for
8 noncompliance with the terms and conditions upon which the grant was made.

9 Section 3. That § 1-16G-16.1 be amended to read as follows:

10 1-16G-16.1. The Board of Economic Development may use the revolving economic
11 development and initiative fund for the purpose of paying taxes and liens and for the procuring
12 of legal services and other services necessary to protect, recover, maintain, and liquidate the
13 assets of the revolving economic development and initiative fund and the large project
14 development fund. Such costs may be incurred and paid up to ten percent of the loan or grant
15 balance with a majority vote of the board of economic development. Costs in excess of ten
16 percent shall be approved by a two-thirds vote of the board. Such services are not subject to
17 state bid laws so long as such services are procured in a commercially acceptable manner.

18 Section 4. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
19 follows:

20 Terms used in this Act Mean:

- 21 (1) "Large project," a project with a total project cost exceeding five million dollars; and
- 22 (2) "Project cost," the amount paid in money, credits, property, or other money's worth
23 for a project.

24 Section 5. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as

1 follows:

2 For the purposes of this Act, the term, project, means a new building or structure or the
3 expansion of an existing building or structure, the construction of which is subject to the
4 contractor's excise tax imposed by chapters 10-46A or 10-46B. A project includes laboratory
5 and testing facilities, manufacturing facilities, power generation facilities, power transmission
6 facilities, agricultural processing facilities, and wind energy facilities. A project does not include
7 any building or structure:

- 8 (1) Used predominantly for the sale of products at retail, other than the sale of electricity
9 at retail, to individual consumers;
- 10 (2) Used predominantly for residential housing or transient lodging;
- 11 (3) Used predominantly to provide health care services;
- 12 (4) Constructed for raising or feeding of livestock; or
- 13 (5) That is not subject to ad valorem real property taxation or equivalent taxes measured
14 by gross receipts.

15 Section 6. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
16 follows:

17 There is established in the state treasury a fund to be known as the large project development
18 fund for the purpose of making grants for large project development.

19 Section 7. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The Board of Economic Development may make grants from the large project development
22 fund for the purpose of promoting large project development in South Dakota.

23 Section 8. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
24 follows:

1 All money in the fund is hereby appropriated for the purpose of making grants as provided
2 in this Act. Any repayment of grants from the large project development fund and any interest
3 thereon shall be receipted into the large project development fund.

4 Section 9. That chapter 1-16G be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The Board of Economic Development may accept and expend for the purposes of sections
7 6 and 7 of this Act, inclusive, any funds obtained from federal sources, gifts, contributions, or
8 any source if such acceptance and expenditure is approved in accordance with § 4-8B-10.

9 Section 10. That chapter 1-16G be amended by adding thereto a NEW SECTION to read
10 as follows:

11 There is hereby continuously appropriated to the large project development fund the amount
12 of twenty-two percent of all deposits into the general fund of the contractors' excise tax imposed
13 by chapter 10-46A and the alternate contractors' excise tax imposed by chapter 10-46B.
14 Transfers from the general fund to the large project development fund pursuant to this provision
15 shall be made on a monthly basis by the Bureau of Finance and Management.

16 Section 11. The provisions of section 10 of this Act are effective on January 1, 2013.