



State of Tennessee

PUBLIC CHAPTER NO. 1006

SENATE BILL NO. 316

By Watson, Gardenhire

Substituted for: House Bill No. 776

By Helton-Haynes, Crawford, Moon, Tim Hicks, Hazlewood, Greg Martin, Vital, Littleton, Alexander

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 40 and Title 7, Chapter 41, relative to the development of retail and other public tourism facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-40-103(5), is amended by designating the existing language as subdivision (A) and adding the following new subdivision (B):

(B) "Cost" does not include:

(i) Expenses for travel, meals, entertainment, motor vehicle expenses, meeting expenses, office expenses, developer salaries, or taxes; or

(ii) Commissions, fees, or other costs paid to or received from an affiliated entity that otherwise receives an incentive under this chapter. For purposes of this subdivision (5)(B)(ii), "affiliated" means that one (1) entity has a direct or indirect ownership interest in the other entity, or the two (2) entities share one (1) or more common owners;

SECTION 2. Tennessee Code Annotated, Section 7-40-103, is amended by adding the following as a new, appropriately designated subdivision:

() "Direct or indirect assistance" or "direct or indirect financial assistance" includes, with respect to all costs submitted for reimbursement on or after July 1, 2011:

(A) Location assistance to a tenant for purposes of incentivizing a tenant to locate a project within a border region retail tourism development district; and

(B) Discounts on rent that:

(i) Are provided to a tenant pursuant to a lease agreement that was executed before the expiration of the investment period;

(ii) Accrue annually based on the amount of rent discounted during each respective year;

(iii) Equal the difference between the actual rent paid and the fair market value of rent at the time the lease was executed using generally accepted valuation practices; and

(iv) Accrue through the thirty-five-year period established in § 7-40-104(d), or the termination of the original lease, whichever occurs first;

SECTION 3. Tennessee Code Annotated, Section 7-40-104(c), is amended by deleting the language "subsection (c)" and substituting instead the language "subdivision (c)(1)".

SECTION 4. Tennessee Code Annotated, Section 7-40-104(c), is amended by designating the language as subdivision (c)(1) and adding the following new subdivision (c)(2):

(2) With respect to a summary of costs that is submitted by the chief financial officer of the municipality on behalf of a developer that has incurred total project costs relative to an economic development project within the district in excess of three million dollars (\$3,000,000), the costs must be compiled and certified by an independent certified public accountant licensed in this state prior to submission to the commissioner.

SECTION 5. Tennessee Code Annotated, Section 7-40-106(c), is amended by deleting the language:

If the commissioner determines that any cost included in a certification of a municipality submitted pursuant to § 7-40-104(c) is not a qualifying cost within the meaning of § 7-40-103, the commissioner shall promptly give notice of the determination to the municipality.

and substituting instead:

If the commissioner determines that any cost included in a certification of a municipality submitted pursuant to § 7-40-104(c) is not a qualifying cost, as defined in § 7-40-103, then the commissioner shall give notice of the determination to the municipality within one hundred twenty (120) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter, and if the notice is not provided within this one-hundred-twenty-day period, then the cost must be approved, is nonreviewable for reversal by any tribunal, and it is conclusive that the cost thereafter is reimbursable under this chapter. With respect to any cost included in a certification of a municipality that has been submitted pursuant to § 7-40-104(c) prior to June 30, 2024, the commissioner shall give notice of any determination to the municipality as to the qualification of such cost within one hundred twenty (120) days of June 30, 2024, or within one hundred twenty (120) days after receiving a summary of costs that is compiled and certified by an independent certified public accountant as required by § 7-40-104(c)(2), whichever is later, and if the notice is not provided within the applicable timeframe, then the cost must be approved, is nonreviewable for reversal by any tribunal, and it is conclusive that the cost is reimbursable under this chapter.

SECTION 6. Tennessee Code Annotated, Section 7-40-112, is amended by adding the following after the last sentence:

It is the legislative intent that modifications made to this chapter on or after July 1, 2024, do not apply to a project or extraordinary retail or tourism facility initiated prior to July 1, 2024.

SECTION 7. Tennessee Code Annotated, Section 7-41-103(4), is amended by designating the existing language as subdivision (A) and adding the following new subdivision (B):

(B) "Cost" does not include:

(i) Expenses for travel, meals, entertainment, motor vehicle expenses, meeting expenses, office expenses, developer salaries, or taxes; or

(ii) Commissions, fees, or other costs paid to or received from an affiliated entity that otherwise receives an incentive under this chapter. For purposes of this subdivision (4)(B)(ii), "affiliated" means that one (1) entity has a direct or indirect ownership interest in the other entity, or the two (2) entities share one (1) or more common owners;

SECTION 8. Tennessee Code Annotated, Section 7-41-103, is amended by adding the following as a new, appropriately designated subdivision:

() "Direct or indirect assistance" or "direct or indirect financial assistance" includes, with respect to all costs submitted for reimbursement on or after July 1, 2019:

(A) Location assistance to a tenant for purposes of incentivizing a tenant to locate a project within a border region retail tourism development district; and

(B) Discounts on rent that:

(i) Are provided to a tenant pursuant to a lease agreement that was executed before the expiration of the investment period;

(ii) Accrue annually based on the amount of rent discounted during each respective year;

(iii) Equal the difference between the actual rent paid and the fair

market value of rent at the time the lease was executed using generally accepted valuation practices; and

(iv) Accrue through the thirty-five-year period established in § 7-40-104(d), or the termination of the original lease, whichever occurs first;

SECTION 9. Tennessee Code Annotated, Section 7-41-104(c), is amended by designating the existing language as subdivision (c)(1) and adding the following new subdivision (c)(2):

(2) With respect to a summary of costs that is submitted by the chief financial officer of the municipality on behalf of a developer that has incurred costs relative to an economic development project within the district in excess of three million dollars (\$3,000,000), the costs must be compiled and certified by an independent certified public accountant licensed in this state prior to submission to the commissioner.

SECTION 10. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 11. This act takes effect upon becoming a law, the public welfare requiring it. Sections 1-7 apply to all costs submitted for reimbursement on or after July 1, 2011, and Sections 8 and 9 apply to all costs submitted for reimbursement on or after July 1, 2019.


SENATE BILL NO. 316

PASSED: April 24, 2024


RANDY McNALLY
SPEAKER OF THE SENATE


CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of May 2024


BILL LEE, GOVERNOR