

SENATE BILL 1958

By Burks

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 3, Part 7 and Title 67, relative to economic development.

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

SECTION 1. This act shall be known and may be cited as the "Upper Cumberland Economic Development Incubator Act".

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 3, Part 7, is amended by adding the following language as new sections:

4-3-739. The Upper Cumberland economic development incubator is established to encourage, promote and support economic growth and prosperity through innovative practices in the Upper Cumberland incubator region. The Upper Cumberland incubator region shall consist of Fentress, Jackson, Morgan and Overton counties.

4-3-740.

(a) There is created a special account in the state treasury to be known as the "Upper Cumberland Incubator Fund", hereinafter referred to as the "incubator fund".

(b)

(1) Moneys in the incubator fund shall be used exclusively to provide grants for projects that enhance community quality-of-life and, thereby, encourage economic development. Such projects include, but are not limited to, libraries, parks, public pools, marinas, civic and community centers and playing fields.

(2) Grants shall be available to qualified applicants in the four-county Upper Cumberland incubator region. Grants may be awarded to a county, a city or any combination of county and city governments applying jointly.

(3) The commissioner of economic and community development shall establish criteria for the incubator grant program. The commissioner shall award such grants from funds then available in the incubator fund.

(4) All grant recipients are subject to audit by the comptroller of the treasury as to the funds received pursuant to this section.

(c)

(1) In addition to appropriations made by the general assembly to the incubator fund, the commissioner may accept other funds, public or private, by way of gift or grant to the fund. Any such gift or grant shall be deposited into the incubator fund to be distributed in accordance with the provisions of this act.

(2) Moneys in the incubator fund may be invested by the state treasurer in accordance with § 9-4-603.

(3) Notwithstanding any law to the contrary, interest accruing on investments and deposits of the incubator fund shall be credited to such fund, shall not revert to the general fund, and shall be carried forward into the subsequent fiscal year.

(4) Any balance remaining unexpended at the end of a fiscal year in the incubator fund shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

SECTION 3. Tennessee Code Annotated, Section 67-4-2009, is amended by adding the following language as a new subdivision:

(9)

(A) There shall be allowed against the sum total of the taxes imposed by this part and by the Franchise Tax Law of 1999, compiled in part 21 of this chapter, a credit equal to fifty percent (50%) of the purchase price of property purchased in the Upper Cumberland incubator region during the tax period covered by the return for the purpose of a qualified development project;

(B) For the purposes of this subdivision (9), unless the context otherwise requires:

(i) "Capital investment" means a business investment in real property, tangible personal property or computer software owned or leased in this state valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction;

(ii) "Investment period" means a period not to exceed five (5) years from the filing of the business plan related to the required capital investment, during which the required capital investment must be made;

(iii) "Qualified development project" means a project consisting of a capital investment of at least ten million dollars (\$10,000,000), utilizing at least ten (10) acres of property in the Upper Cumberland incubator region and having a business plan approved by the commissioner of revenue in accordance with the applicable provisions of subdivision (8)(E); and

(iv) "Upper Cumberland incubator region" has the same meaning as provided in § 4-3-739;

(C) The credit allowed pursuant to this subdivision (9) shall apply against the excise tax imposed by this part and by the Franchise Tax Law of 1999; provided, however, that such credit, together with any carry-forward thereof, taken on any franchise and excise tax return shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown by the return before any credit is taken. Any credit authorized under this subdivision (9)(C) that is unused may be carried forward in any tax period until the credit is taken; provided, that the credit may not be carried forward for more than fifteen (15) years;

(D)

(i) The taxpayer shall file a business plan for the development project with the commissioner of revenue in order to qualify for the credit;

(ii) Qualifying plans shall be approved by the commissioner of revenue. At such time, an approval letter authorizing the credit, the value of the credit and the terms of the credit shall be issued. A copy of the approval letter shall be filed by the taxpayer with the department of revenue in any year in which the taxpayer utilizes the credit;

(iii) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the findings contained within the business plan and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the credit in this subdivision (9);

(E) The credit provided in this subdivision (9) shall begin to apply in the first year of the investment period as provided in the business plan; however, if the capital investment is not met during the investment period, the taxpayer shall

be subject to an assessment equal to the amount of any credit taken under this subdivision (9) for which the taxpayer failed to qualify, plus interest;

(F) The aggregate amount of the credits allowed to all taxpayers under this subdivision (9) shall not exceed five million dollars (\$5,000,000) in any one (1) tax year;

(G) Notwithstanding any provision of this subdivision (9) to the contrary, no credit shall be allowed unless the commissioner of revenue and the commissioner of economic and community development determine, in their sole discretion, that the credit is in the best interest of the state. For purposes of this subdivision (9)(H), "best interest of the state" means a determination by the commissioner of revenue and the commissioner of economic and community development that the project is a result of the credit provided in this subdivision (9).

SECTION 4. This act shall take effect July 1, 2014, the public welfare requiring it.