

2013 -- S 0734 SUBSTITUTE B

=====
LC02050/SUB B
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO TAXATION -- RHODE ISLAND ECONOMIC DEVELOPMENT TAX
CREDIT ACCOUNTABILITY ACT OF 2013

Introduced By: Senators DaPonte, Goodwin, Ruggerio, Paiva Weed, and Lynch

Date Introduced: March 13, 2013

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 35-1.1-3 of the General Laws in Chapter 35-1.1 entitled "Office of
2 Management and Budget" is hereby amended to read as follows:

3 **35-1.1-3. Director of management and budget. --** Appointment and responsibilities.

4 (a) Within the department of administration there shall be a director of management and
5 budget, who shall be appointed by the director of administration with the approval of the
6 governor. The director shall be responsible to the governor and director of administration for
7 supervising the office of management and budget and for managing and providing strategic
8 leadership and direction to the budget officer, the performance management office, and the
9 federal grants management office.

10 (b) The director of management and budget shall be responsible to:

11 (1) Oversee, coordinate and manage the functions of the budget officer as set forth by
12 section 35-3, program performance management as set forth by § 35-3-24.1, approval of
13 agreements with federal agencies defined by § 35-3-25 and budgeting, appropriation and receipt
14 of federal monies as set forth by chapter 42-41;

15 (2) Manage federal fiscal proposals and guidelines, and serve as the State Clearinghouse
16 for the application of federal grants; and,

17 (3) Maximize the indirect cost recoveries by state agencies set forth by § 35-4-23.1.

18 (4) To undertake a comprehensive review and inventory of all reports filed by the

1 [executive office and agencies of the state with the general assembly. The inventory should](#)
2 [include but not be limited to: the type, title, and summary of reports; the author\(s\) of the reports;](#)
3 [the specific audience of the reports; and a schedule of the reports' release. The inventory shall be](#)
4 [presented to the general assembly as part of the budget submission on a yearly basis. The office](#)
5 [of management and budget shall also make recommendations to consolidate, modernize the](#)
6 [reports, and to make recommendations for elimination or expansion of each report.](#)

7 SECTION 2. Section 35-3-7 of the General Laws in Chapter 35-3 entitled "State Budget"
8 is hereby amended to read as follows:

9 **35-3-7. Submission of budget to general assembly - Contents. --**

10 (a) On or before the third Thursday in January in each year of each January session of
11 the general assembly, the governor shall submit to the general assembly a budget containing a
12 complete plan of estimated revenues and proposed expenditures, with a personnel supplement
13 detailing the number and titles of positions of each agency and the estimates of personnel costs
14 for the next fiscal year, [and with the inventory required by subsection 35-1.1-3\(b\)\(4\)](#). Provided,
15 however, in those years that a new governor is inaugurated, the new governor shall submit the
16 budget on or before the first Thursday in February. In the budget the governor may set forth in
17 summary and detail:

18 (1) Estimates of the receipts of the state during the ensuing fiscal year under laws existing
19 at the time the budget is transmitted and also under the revenue proposals, if any, contained in the
20 budget, and comparisons with the estimated receipts of the state during the current fiscal year, as
21 well as actual receipts of the state for the last two (2) completed fiscal years.

22 (2) Estimates of the expenditures and appropriations necessary in the governor's
23 judgment for the support of the state government for the ensuing fiscal year, and comparisons
24 with appropriations for expenditures during the current fiscal year, as well as actual expenditures
25 of the state for the last two (2) complete fiscal years.

26 (3) Financial statements of the

27 (i) Condition of the treasury at the end of the last completed fiscal year;

28 (ii) The estimated condition of the treasury at the end of the current fiscal year; and

29 (iii) Estimated condition of the treasury at the end of the ensuing fiscal year if the
30 financial proposals contained in the budget are adopted.

31 (4) All essential facts regarding the bonded and other indebtedness of the state.

32 (5) A report indicating those program revenues and expenditures whose funding source is
33 proposed to be changed from state appropriations to restricted receipts, or from restricted receipts
34 to other funding sources.

1 (6) Such other financial statements and data as in the governor's opinion are necessary or
2 desirable.

3 (b) Any other provision of the general laws to the contrary notwithstanding, the proposed
4 appropriations submitted by the governor to the general assembly for the next ensuing fiscal year
5 should not be more than five and one-half percent (5.5%) in excess of total state appropriations,
6 excluding any estimated supplemental appropriations, enacted by the general assembly for the
7 fiscal year previous to that for which the proposed appropriations are being submitted; provided,
8 that the increased state share provisions required to achieve fifty percent (50%) state financing of
9 local school operations as provided for in P.L. 1985, ch. 182, shall be excluded from the
10 definition of total appropriations.

11 (c) Notwithstanding the provisions of subsection 35-3-7(a), the governor shall submit to
12 the general assembly a budget for the fiscal year ending June 30, 2006 not later than the fourth
13 (4th) Thursday in January 2005.

14 (d) Notwithstanding the provisions of subsection 35-3-7(a), the governor shall submit to
15 the general assembly a supplemental budget for the fiscal year ending June 30, 2006 and/or a
16 budget for the fiscal year ending June 30, 2007 not later than Thursday, January 26, 2006.

17 (e) Notwithstanding the provisions of subsection 35-3-7(a), the governor shall submit to
18 the general assembly a supplemental budget for the fiscal year ending June 30, 2007 and/or a
19 budget for the fiscal year ending June 30, 2008 not later than Wednesday, January 31, 2007.

20 (f) Notwithstanding the provisions of subsection 35-3-7(a), the governor shall submit to
21 the general assembly a budget for the fiscal year ending June 30, 2012 not later than Thursday,
22 March 10, 2011.

23 (g) Notwithstanding the provisions of subsection 35-3-7(a), the governor shall submit to
24 the general assembly a budget for the fiscal year ending June 30, 2013 not later than Tuesday,
25 January 31, 2012.

26 SECTION 3. Section 22-12-3 of the General Laws in Chapter 22-12 entitled "Fiscal
27 Notes" is hereby amended to read as follows:

28 **22-12-3. Request for fiscal notes.--** (a) Fiscal notes shall only be requested by the
29 chairperson of the house or senate finance committee upon being notified by another committee
30 chairperson, the sponsor of the bill or resolution, or in the case of bills or resolutions affecting
31 cities or towns, by the Rhode Island League of Cities and Towns in addition to the individuals
32 referred to in this section, of the existence of any bill or resolution described in § 22-12-1.
33 Requests shall be made in the form and substance as may be requested by the finance committee
34 chairperson, and shall be forwarded through the house or senate fiscal adviser to the state budget

1 officer, who shall determine the agency or agencies affected by the bill, or for bills affecting cities
2 and towns to the chief executive official of the cities and the towns, the Rhode Island League of
3 Cities and Towns, and the department of revenue. The budget officer shall then be responsible, in
4 cooperation with these agencies, for the preparation of the fiscal note, except that the department
5 of administration, in consultation and cooperation with the Rhode Island League of Cities and
6 Towns, shall be responsible for the preparation of the fiscal note for bills affecting cities and
7 towns.

8 [\(b\) The chairperson of either the house finance or senate finance committee may also](#)
9 [require executive branch agencies to provide performance metrics when legislation affecting an](#)
10 [agency's program or policy has an economic impact.](#)

11 SECTION 4. Section 42-146-6 of the General Laws in Chapter 42-142 entitled
12 "Department of Revenue" is hereby amended to read as follows:

13 **42-142-6. Annual unified economic development report.** -- (a) The director of the
14 department of revenue shall, no later than January 15th of each state fiscal year, compile and
15 publish, in printed and electronic form, including on the Internet, an annual unified economic
16 development report which shall provide the following comprehensive information regarding the
17 tax credits or other tax benefits conferred pursuant to §§ 42-64-10, 44-63-3, 42-64.5-5, 42-64.3-1,
18 and 44-31.2-6.1 during the preceding fiscal year:

19 (1) The name of each recipient of any such tax credit or other tax benefit; the dollar
20 amount of each such tax credit or other tax benefit; and summaries of the number of full-time and
21 part-time jobs created or retained, an overview of benefits offered, and the degree to which job
22 creation and retention, wage and benefit goals and requirements of recipient and related
23 corporations, if any, have been met. The report shall include aggregate dollar amounts of each
24 category of tax credit or other tax benefit; to the extent possible, the amounts of tax credits and
25 other tax benefits by geographical area; the number of recipients within each category of tax
26 credit or retained; overview of benefits offered; and the degree to which job creation and
27 retention, wage and benefit rate goals and requirements have been met within each category of
28 tax credit or other tax benefit;

29 (2) The cost to the state and the approving agency for each tax credit or other tax benefits
30 conferred pursuant to §§ 42-64-10, 44-63-3, 42-64.5-5, 42-64.3-1, and 44-31.2-6.1 during the
31 preceding fiscal year;

32 (3) To the extent possible, the amounts of tax credits and other tax benefits by
33 geographical area; ~~and~~

34 (4) The extent to which any employees of and recipients of any such tax credits or other

1 tax benefits has received RIte Care or RIte Share benefits or assistance: and

2 (5) To the extent the data exists, a cost-benefit analysis prepared by the office of revenue
3 analysis based upon the collected data under sections 42-64-10, 44-63-3, 42-64.5-5, 42-64-3.1,
4 and 44-31.2-6.1, and required for the preparation of the unified economic development report.
5 The cost-benefit analysis may include but shall not be limited to the cost to the state for the
6 revenues reductions, cost to administer the credit, projected revenues gained from the credit, and
7 other metrics which can be measured along with a baseline assessment of the original intent of
8 the legislation. The office of revenue analysis shall also indicate the purpose of the credit to the
9 extent that it is provided in the enabling legislation, or note the absence of such information, and
10 any measureable goals established by the granting authority of the credit. Where possible, the
11 analysis shall cover a five (5) year period projecting the cost and benefits over this period. The
12 office of revenue analysis may utilize outside services or sources for development of the
13 methodology and modeling techniques. The unified economic development report shall include
14 the cost-benefit analysis starting January 15, 2014. The office of revenue analysis shall work in
15 conjunction with Rhode Island economic corporation as established chapter 42-64.

16 (b) After the initial report, the division of taxation will perform reviews of each recipient
17 of this tax credit or other tax benefits to ensure the accuracy of the employee data submitted. The
18 division of taxation will include a summary of the reviews performed along with any adjustments,
19 modifications and/or allowable recapture of tax credit amounts and data included on prior year
20 reports.

21 SECTION 5. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
22 adding thereto the following chapter:

23 CHAPTER 48.2

24 "RHODE ISLAND ECONOMIC DEVELOPMENT TAX INCENTIVES EVALUATION ACT
25 OF 2013"

26 **44-48.2-1. Short title. --** This chapter shall be known and may be cited as the "Economic
27 Development Tax Incentives Evaluation Act of 2013."

28 **44-48.2-2. Legislative findings and purpose. --** The general assembly finds and declares
29 that:

30 (1) The state of Rhode Island relies on a number of tax incentives, including credits,
31 exemptions, and deductions, to encourage businesses to locate, hire employees, expand, invest,
32 and/or remain in the state;

33 (2) These various tax incentives are intended as a tool for economic development,
34 promoting new jobs and business growth in Rhode Island;

1 (3) The state needs a systematic approach for evaluating whether incentives are fulfilling
2 their intended purposes in a cost-effective manner;

3 (4) In order to improve state government's effectiveness in serving the residents of this
4 state, the legislature finds it necessary to provide for the systematic and comprehensive analysis
5 of economic development tax incentives, and for those analyses to be incorporated into the
6 budget and policymaking processes.

7 **44-48.2-3. Economic development tax incentive defined.** -- (a) As used in this section,
8 the term "economic development tax incentive" shall include:

9 (1) Those tax credits, deductions, exemptions, exclusions, and other preferential tax
10 benefits associated with sections 42-64.3-6, 42-64.3-7, 42-64.5-3, 42-64.6-4, 42-64.11-4, 44-30-
11 1.1, 44-31-1, 44-31-1.1, 44-31-2, 44-31.2-5, 44-32-1, 44-32-2, 44-32-3, 44-39.1-1, 44-43-2, 44-
12 43-3, and 44-63-2, and;

13 (2) Any future incentives enacted after the effective date of this section for the purpose of
14 recruitment or retention of businesses in the state of Rhode Island.

15 (b) In determining whether a future tax incentive is enacted for "the purpose of
16 recruitment or retention of businesses," the office of revenue analysis shall consider legislative
17 intent, including legislative statements of purpose and goals, and may also consider whether the
18 tax incentive is promoted as a business incentive by the state's economic development agency or
19 other relevant state agency.

20 **44-48.2-4. Economic Development Tax Incentive Evaluations, Schedule.** -- (a) In
21 accordance with the following schedule, the tax expenditure report produced by the chief of the
22 office of revenue analysis pursuant to section 44-48.1-1, shall include an additional analysis
23 component, consistent with section 44-48.2-5 and produced in consultation with the director of
24 the economic development corporation, the director of the office of management and budget, and
25 the director of the department of labor and training;

26 (1) Analyses of economic development tax incentives as listed in subdivision 44-48.2-
27 3(1) shall be completed at least once between July 1, 2014 and June 30, 2017, and no less than
28 once every three (3) years thereafter;

29 (2) Analyses of any economic development tax incentives created after July 1, 2013, shall
30 be completed within five (5) years of taking effect, and no less than once every three (3) years
31 thereafter;

32 (b) No later than the tenth (10th) of January each year, beginning in 2014, the office of
33 revenue analysis will submit to the chairs of the senate and house finance committees a three (3)
34 year plan for evaluating economic development tax incentives.

1 **44-48.2-5. Economic Development Tax Incentive Evaluations, Analysis. --**

2 (a) The additional analysis as required by section 44-48.2-4 shall include, but not be
3 limited to:

4 (1) A baseline assessment of the tax incentive, including, if applicable, the number of
5 aggregate jobs associated with the taxpayers receiving such tax incentive and the aggregate
6 annual revenue that such taxpayers generate for the state through the direct taxes applied to them
7 and through taxes applied to their employees;

8 (2) The statutory and programmatic goals and intent of the tax incentive, if said goals and
9 intentions are included in the incentive's enabling statute or legislation;

10 (3) The number of taxpayers granted the tax incentive during the previous twelve (12)
11 month period;

12 (4) The value of the tax incentive granted, and ultimately claimed, listed by the North
13 American Industrial Classification System (NAICS) Code associated with the taxpayers receiving
14 such benefit, if such NAICS Code is available;

15 (5) An assessment and five (5) year projection of the potential impact on the state's
16 revenue stream from carry forwards allowed under such tax incentive;

17 (6) An estimate of the economic impact of the tax incentive including, but not limited to:

18 (i) A cost-benefit comparison of the revenue foregone by allowing the tax incentive
19 compared to tax revenue generated by the taxpayer receiving the credit, including direct taxes
20 applied to them and taxes applied to their employees;

21 (ii) An estimate of the number of jobs that were the direct result of the incentive; and

22 (iii) A statement by the director of the economic development corporation as to whether,
23 in his or her judgment, the statutory and programmatic goals of the tax benefit are being met, with
24 obstacles to such goals identified, if possible;

25 (7) The estimated cost to the state to administer the tax incentive, if such information is
26 available;

27 (8) An estimate of the extent to which benefits of the tax incentive remained in state or
28 flowed outside the state, if such information is available;

29 (9) In the case of economic development tax incentives where measuring the economic
30 impact is significantly limited due to data constraints, whether any changes in statute would
31 facilitate data collection in a way that would allow for better analysis;

32 (10) Whether the effectiveness of the tax incentive could be determined more definitively
33 if the general assembly were to clarify or modify the tax incentive's goals and intended purpose;

34 (11) A recommendation as to whether the tax incentive should be continued, modified or

1 terminated, the basis for such recommendation, and the expected impact of such recommendation
2 on the state's economy;

3 (12) The methodology and assumptions used in carrying out the assessments, projections
4 and analyses required pursuant to subdivisions (1) through (8) of this section.

5 (b) All departments, offices, boards, and agencies of the state shall cooperate with the
6 chief of the office of revenue analysis and shall provide to the office of revenue analysis any
7 records, information (documentary and otherwise), data, and data analysis as may be necessary
8 to complete the report required pursuant to this section.

9 **44-48.2-6. Consideration by the governor. --** The governor's budget submission as
10 required under chapter 35-3 shall identify each economic development tax incentive for which an
11 evaluation was completed in accordance with this chapter in the period since the governor's
12 previous budget submission. For each evaluated tax incentive, the governor's budget submission
13 shall include a recommendation as to whether the tax incentive should be continued, modified, or
14 terminated.

15 SECTION 6. Sections 1, 2, 3 and 4 of this act shall take effect January 1, 2014. Section 5
16 of this act shall take effect sixty (60) days after passage.

=====
LC02050/SUB B
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TAXATION -- RHODE ISLAND ECONOMIC DEVELOPMENT TAX
CREDIT ACCOUNTABILITY ACT OF 2013

1 This act would require the director management and budge to prepare a comprehensive
2 review and inventory of all reports from the executive office and other state agencies that are filed
3 with the general assembly. This act would also provide that this inventory would be presented to
4 the general assembly as part of the annual budget submission. This act would also require that a
5 cost-benefit analysis be incorporated into the annual unified economic development report that is
6 prepared by the office of revenue analysis. This act would also create the "Rhode Island
7 Economic Development Tax Incentives Evaluation Act of 2013" to provide an assessment of the
8 state's tax incentive programs.

9 Sections 1, 2, 3 and 4 of this act would take effect January 1, 2014. Section 5 of this act
10 would take effect sixty (60) days after passage.

=====
LC02050/SUB B
=====