

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0722.01 Ed DeCecco x4216

HOUSE BILL 13-1206

HOUSE SPONSORSHIP

DelGrosso, Holbert, Buck, Everett, Gardner, Lawrence, Murray, Nordberg, Saine, Swalm,
Waller, Hullinghorst, McNulty, Pabon, Priola, Young

SENATE SPONSORSHIP

Scheffel, Baumgardner, Jahn, Renfroe, Cadman, Kefalas, Lundberg

House Committees

Local Government
Finance

Senate Committees

State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING THE EXPANSION OF A LOCAL GOVERNMENT'S ABILITY TO**
102 **ENTER INTO A BUSINESS INCENTIVE AGREEMENT WITH A**
103 **TAXPAYER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

A county, municipality, or special district (local government) is currently authorized to negotiate an incentive payment or credit with a taxpayer that establishes a new business facility or expands an existing business facility (business incentive agreement).

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
Amended 2nd Reading
May 2, 2013

HOUSE
3rd Reading Unamended
March 5, 2013

HOUSE
Amended 2nd Reading
March 1, 2013

The bill expands the authority for a local government to negotiate a business incentive agreement with a taxpayer that has an existing business facility in the local government, if the local government is satisfied that there is a substantial risk that the taxpayer will relocate the facility out of state. A local government negotiating any type of business incentive agreement is not required to inform a school district of the negotiations because school districts are no longer authorized to enter into business incentive agreements.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 30-11-123, **amend**
3 (5); and **add** (1.5) as follows:

4 **30-11-123. Legislative declaration - counties - new business**
5 **facilities - expanded or existing business facilities - incentives -**
6 **limitations - authority to exceed revenue-raising limitations -**
7 **definitions.** (1.5) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY,
8 A COUNTY MAY NEGOTIATE AN INCENTIVE PAYMENT OR CREDIT FOR A
9 TAXPAYER THAT HAS AN EXISTING BUSINESS FACILITY LOCATED IN THE
10 COUNTY IF, BASED ON VERIFIABLE DOCUMENTATION, THE COUNTY IS
11 SATISFIED THAT THERE IS A SUBSTANTIAL RISK THAT THE TAXPAYER WILL
12 RELOCATE THE FACILITY OUT OF STATE.

13 (b) THE DOCUMENTATION REQUIRED PURSUANT TO PARAGRAPH (a)
14 OF THIS SUBSECTION (1.5) MUST INCLUDE INFORMATION THAT THE
15 TAXPAYER COULD REASONABLY AND EFFICIENTLY RELOCATE THE
16 FACILITY OUT OF STATE AND THAT AT LEAST ONE OTHER STATE IS BEING
17 CONSIDERED FOR THE RELOCATION. IN ORDER TO BE ELIGIBLE FOR A
18 PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), A TAXPAYER MUST
19 IDENTIFY THE SPECIFIC REASONS WHY THE TAXPAYER IS CONSIDERING
20 LEAVING THE STATE.

21 (c) A COUNTY SHALL NOT GIVE AN ANNUAL INCENTIVE PAYMENT

1 OR CREDIT UNDER THIS SUBSECTION (1.5) THAT IS GREATER THAN THE
2 AMOUNT OF THE TAXES LEVIED BY THE COUNTY UPON THE TAXABLE
3 PERSONAL PROPERTY LOCATED AT OR WITHIN THE EXISTING BUSINESS
4 FACILITY AND USED IN CONNECTION WITH THE OPERATION OF THE
5 EXISTING BUSINESS FACILITY FOR THE CURRENT PROPERTY TAX YEAR. THE
6 TERM OF AN AGREEMENT MADE PURSUANT TO THIS SUBSECTION (1.5)
7 SHALL NOT EXCEED TEN YEARS, AND THIS LIMIT INCLUDES ANY RENEWALS
8 OF THE ORIGINAL AGREEMENT. A COUNTY SHALL NOT GIVE AN ANNUAL
9 INCENTIVE PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), UNLESS
10 THE BOARD OF COUNTY COMMISSIONERS APPROVES THE PAYMENT OR
11 CREDIT AT A PUBLIC HEARING.

12 (5) Any county ~~which~~ THAT negotiates any agreement pursuant to
13 the provisions of this section shall inform any municipality ~~and any~~
14 ~~school district~~ in which a new business facility would be located, or an
15 EXISTING OR expanded business facility is located, whichever is
16 applicable, of such negotiations.

17 **SECTION 2.** In Colorado Revised Statutes, 31-15-903, **amend**
18 (4); and **add** (1.5) as follows:

19 **31-15-903. Legislative declaration - municipalities - new**
20 **business facilities - expanded or existing business facilities - incentives**
21 **- limitations - authority to exceed revenue-raising limitation.**

22 (1.5) (a) NOTWITHSTANDING ANY LAW TO THE CONTRARY, A
23 MUNICIPALITY MAY NEGOTIATE AN INCENTIVE PAYMENT OR CREDIT FOR
24 A TAXPAYER THAT HAS AN EXISTING BUSINESS FACILITY LOCATED IN THE
25 MUNICIPALITY **IF, BASED ON VERIFIABLE DOCUMENTATION,** THE
26 MUNICIPALITY IS SATISFIED THAT THERE IS A SUBSTANTIAL RISK THAT THE
27 TAXPAYER WILL RELOCATE THE FACILITY OUT OF STATE.

1 (b) THE DOCUMENTATION REQUIRED PURSUANT TO PARAGRAPH (a)
2 OF THIS SUBSECTION (1.5) MUST INCLUDE INFORMATION THAT THE
3 TAXPAYER COULD REASONABLY AND EFFICIENTLY RELOCATE THE
4 FACILITY OUT OF STATE AND THAT AT LEAST ONE OTHER STATE IS BEING
5 CONSIDERED FOR THE RELOCATION. IN ORDER TO BE ELIGIBLE FOR A
6 PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), A TAXPAYER MUST
7 IDENTIFY THE SPECIFIC REASONS WHY THE TAXPAYER IS CONSIDERING
8 LEAVING THE STATE.

9 (c) A MUNICIPALITY SHALL NOT GIVE AN ANNUAL INCENTIVE
10 PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5) THAT IS GREATER
11 THAN THE AMOUNT OF THE TAXES LEVIED BY THE MUNICIPALITY UPON THE
12 TAXABLE PERSONAL PROPERTY LOCATED AT OR WITHIN THE EXISTING
13 BUSINESS FACILITY AND USED IN CONNECTION WITH THE OPERATION OF
14 THE EXISTING BUSINESS FACILITY FOR THE CURRENT PROPERTY TAX YEAR.
15 THE TERM OF AN AGREEMENT MADE PURSUANT TO THIS SUBSECTION (1.5)
16 SHALL NOT EXCEED TEN YEARS, AND THIS LIMIT INCLUDES ANY RENEWALS
17 OF THE ORIGINAL AGREEMENT. A MUNICIPALITY SHALL NOT GIVE AN
18 ANNUAL INCENTIVE PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5),
19 UNLESS THE GOVERNING BODY OF THE MUNICIPALITY APPROVES THE
20 PAYMENT OR CREDIT AT A PUBLIC HEARING.

21 (4) Any municipality ~~which~~ THAT negotiates any agreement
22 pursuant to the provisions of this section shall inform any county ~~and any~~
23 ~~school district~~ in which a new business facility would be located, or an
24 EXISTING OR expanded business facility is located, whichever is
25 applicable, of such negotiations.

26 **SECTION 3.** In Colorado Revised Statutes, 32-1-1702, **amend**
27 (4); and **add** (1.5) as follows:

1 **32-1-1702. New business facilities - expanded or existing**
2 **business facilities - incentives - limitations - authority to exceed**
3 **revenue-raising limitation.** (1.5) (a) NOTWITHSTANDING ANY LAW TO
4 THE CONTRARY, A SPECIAL DISTRICT MAY NEGOTIATE AN INCENTIVE
5 PAYMENT OR CREDIT FOR A TAXPAYER THAT HAS AN EXISTING BUSINESS
6 FACILITY LOCATED IN THE SPECIAL DISTRICT IF, BASED ON VERIFIABLE
7 DOCUMENTATION, THE SPECIAL DISTRICT IS SATISFIED THAT THERE IS A
8 SUBSTANTIAL RISK THAT THE TAXPAYER WILL RELOCATE THE FACILITY
9 OUT OF STATE.

10 (b) THE DOCUMENTATION REQUIRED PURSUANT TO PARAGRAPH (a)
11 OF THIS SUBSECTION (1.5) MUST INCLUDE INFORMATION THAT THE
12 TAXPAYER COULD REASONABLY AND EFFICIENTLY RELOCATE THE
13 FACILITY OUT OF STATE AND THAT AT LEAST ONE OTHER STATE IS BEING
14 CONSIDERED FOR THE RELOCATION. IN ORDER TO BE ELIGIBLE FOR A
15 PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5), A TAXPAYER MUST
16 IDENTIFY THE SPECIFIC REASONS WHY THE TAXPAYER IS CONSIDERING
17 LEAVING THE STATE.

18 (c) A SPECIAL DISTRICT SHALL NOT GIVE AN ANNUAL INCENTIVE
19 PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5) THAT IS GREATER
20 THAN THE AMOUNT OF THE TAXES LEVIED BY THE SPECIAL DISTRICT UPON
21 THE TAXABLE PERSONAL PROPERTY LOCATED AT OR WITHIN THE EXISTING
22 BUSINESS FACILITY AND USED IN CONNECTION WITH THE OPERATION OF
23 THE EXISTING BUSINESS FACILITY FOR THE CURRENT PROPERTY TAX YEAR.
24 THE TERM OF AN AGREEMENT MADE PURSUANT TO THIS SUBSECTION (1.5)
25 SHALL NOT EXCEED TEN YEARS, AND THIS LIMIT INCLUDES ANY RENEWALS
26 OF THE ORIGINAL AGREEMENT. A SPECIAL DISTRICT SHALL NOT GIVE AN
27 ANNUAL INCENTIVE PAYMENT OR CREDIT UNDER THIS SUBSECTION (1.5).

1 UNLESS THE BOARD OF THE SPECIAL DISTRICT APPROVES THE PAYMENT OR
2 CREDIT AT A PUBLIC HEARING.

3 (4) A special district that negotiates an agreement pursuant to the
4 provisions of this section shall inform any municipality AND county ~~and~~
5 ~~school district~~ in which a new business facility would be located, or an
6 EXISTING OR expanded business facility is located, whichever is
7 applicable, of such negotiations.

8 **SECTION 4. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2014 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.