



Substitute Senate Bill No. 390

Public Act No. 08-34

AN ACT CONCERNING TECHNICAL CHANGES TO ECONOMIC DEVELOPMENT STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 32-221 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

It is found and declared that the maintenance and continued development of the state's manufacturing [sector] and other economic base business sectors is important to the economic welfare of the state and to the retention and creation of job opportunities within the state; that [the manufacturing sector] these sectors of the state's economy [is] are facing increased competition from other geographic areas of the world; that assistance from the state can promote the retention, expansion, and diversification of existing manufacturing and other economic base businesses and encourage manufacturing and other economic base businesses from other geographic areas to locate into the state; that assistance from the state can enhance employment opportunity and the tax base of communities, particularly in the state's more economically disadvantaged communities; that the economic competitiveness of manufacturing and other economic base businesses is dependent in part upon the provision of adequate business support services such as day care, job training, education, transportation,

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employee housing, energy conservation, pollution control and recycling; that state assistance to promote the retention and expansion and increase the competitiveness of manufacturing and other economic base businesses is an important function of the state and is a public use for which public moneys may be expended; that in certain cases assistance and encouragement of diversification of manufacturing and other economic base businesses within the state may promote the economic welfare of the state and is a public use and purpose for which public moneys may be expended; that the participation and cooperation of the state's agencies and authorities in providing financial assistance will improve the timeliness and decrease the costs to businesses of providing such assistance; and therefore the necessity in the public interest and for the public benefit and good for the provisions of sections 32-220 to 32-234, inclusive, is hereby declared as a matter of legislative determination.

Sec. 2. Section 32-222 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

As used in sections 32-220 to 32-234, inclusive:

(a) "Business development project" means a project undertaken by an eligible applicant involving one or more of the [activities described in subdivision (1), satisfying one or more of the criteria set forth in subdivision (2) or involving the activities described in subdivision (3), as follows] following:

(1) The [project involves (A) the] construction, substantial renovation, improvement or expansion of a facility; [(B) the acquisition of an existing facility that has been idle for at least one year prior to such acquisition, provided if such facility is acquired through a lease, such lease: (i) Shall be for an initial term of not less than five years, and (ii) shall be renewable at the option of the lessee for an additional term of not less than five years, provided the lease may be subject to the

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option of the lessee to purchase the facility at any time during the lease term or thereafter. The commissioner may waive the one-year idleness requirement upon determination that there is a high likelihood that the facility will remain idle for one year. In making such determination, the commissioner shall consider the marketability of the facility, the general economic condition of the municipality in which the facility is located, the size of the facility, the economic benefit of the proposed acquisition to the municipality and the state, including, but not limited to, the number of employment positions proposed to be established at the facility, and the degree to which the provision of financial assistance under sections 32-220 to 32-234, inclusive, is necessary as an inducement to the eligible applicant to acquire the facility; (C) the]

(2) The acquisition of new machinery and equipment; [used directly in the manufacturing of goods or products and acquired through purchase as part of the technological upgrading of the manufacturing process of a facility used in the operation of a manufacturing or economic base business which (i) has been in continuous operation in the state for not less than five years; and (ii) has incurred costs in acquiring such machinery and equipment not less than the greater of two hundred thousand dollars, or two hundred per cent of the average annual expenditure of the manufacturing or economic base business for the acquisition of new machinery and equipment used directly in the manufacturing of goods or products at the facility during the three years prior to the date upon which an application for financial assistance is submitted pursuant to subsection (c) of section 32-223, or (D) the]

(3) The acquisition, improvement, demolition, cultivation or disposition of real property, or combinations thereof, or the remediation of contaminated real property; [used or to be used in connection with the operation of a manufacturing or economic base business, provided, if the eligible applicant is not a municipality or

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implementing agency, the commissioner has determined that such project would not be undertaken or completed in a timely manner except for the provision of financial assistance pursuant to sections 32-220 to 32-234, inclusive, and that such project promotes the economic stability and growth of the state or any region thereof;]

[(2) A project which will: (A) Create] (4) The creation at a facility, within twenty-four months of the initiation of a hiring program, not less than ten new jobs or an increase in the number of persons employed at the facility of twenty per cent, whichever is greater; [(B) promote the]

(5) Economic diversification of the economy of an area of the state or manufacturing or other economic base business where such area or business is substantially reliant upon defense and related industry; [(C) assist]

(6) Participation in the avoidance of an imminent plant closing or relocation by a manufacturing or other economic base business or assist or improve the economy of an area of the state which has been or is likely to be significantly and adversely impacted by one or more major plant closings or relocations; [(D) support]

(7) Support research and development or commercialization of technologies, products, processes or techniques of a manufacturing or other economic base business; [(E) promote]

(8) Creation or support of organizations that provide technical and engineering assistance to small manufacturers or other economic base businesses to assist them with the design, testing, manufacture and marketing of new products and the instruction and implementation of new techniques and technologies;

(9) Support of substantial workforce development efforts;

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(10) Promotion of community conservation or development or improvement of the quality of life for urban residents of the state; or [(F) promote]

(11) Promotion of the revitalization of underutilized, state-owned former railroad depots and areas adjacent to such depots;

[(3) The project involves the creation of an inventors workshop by an eligible applicant, to enable (A) small manufacturing subcontractors which manufacture parts and components exclusively for other companies or (B) current or former manufacturing employees or higher education faculty or researchers, to design, test, manufacture and market new products and manufacturing techniques;]

(b) "Business support services" means activities related to a municipal development project or business development project which support the economic competitiveness of manufacturing or economic base businesses or which further the interests of the state, including, but not limited to, facilities and services related to day care, job training, education, transportation, employee housing, energy conservation, pollution control and recycling, provided activities related to employee housing shall be limited to feasibility and implementation studies;

(c) "Commissioner" means the Commissioner of Economic and Community Development;

(d) "Economic base business" means a business that the commissioner determines will materially contribute to the economy of the state by creating or retaining jobs, exporting products or services beyond the state's boundaries, encouraging innovation in products or services, adding value to products or services or otherwise supporting or enhancing existing activities important to the economy of the state;

[(d)] (e) "Economic cluster" means an economic cluster, as defined in

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section 32-4e, recognized by the commissioner;

[(e)] (f) "Department" means the Department of Economic and Community Development;

[(f)] (g) "Development plan" means a plan for a municipal development project prepared in accordance with the provisions of subsection (b) of section 32-223, as amended by this act;

[(g)] (h) "Eligible applicant" means any for-profit or nonprofit organization, or any combination thereof, [provided, in the case of a defense diversification project, "eligible applicant" means any for-profit or nonprofit organization,] any municipality, regional planning agency or any combination thereof and further provided, in the case of a loan made by the Connecticut Development Authority in which the department purchases a participation interest, "eligible applicant" means the for-profit or nonprofit organization, or any combination thereof, that will receive the proceeds of such loan;

[(h)] "Facility" means a plant, building or other real property improvement, or part thereof, used or to be used in connection with the operation of a manufacturing or economic base business;]

(i) "Financial assistance" means grants, funds for the purchase of insurance policies and payment of deductibles for insurance policies to cover remediation costs, extensions of credit, loans or loan guarantees, participation interests in loans made to eligible applicants by the Connecticut Development Authority or combinations thereof;

(j) "For-profit organization" means a for-profit partnership or sole proprietorship or corporation or limited liability company which is [a manufacturing or] an economic base business or has a North American Industrial Classification code of 311111 through 339999 or 493110, 493120, 493130, 493190, 511210, 512110, 512120, 512191, 522210, 522293, 522294, 522298, 522310, 522320, 522390, 523110, 523120, 523130, 523140,

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523210, 523910, 524113, 524114, 524126, 524127, 524128, 524130, 524292, 541711, 541712, 551111, 551112, 551114, 561422, 611310, 611410, 611420, 611430, 611513, 611519, 611710 and 624410 or any business that is part of an economic cluster, or any establishment or auxiliary or operating unit thereof, as defined in the North American Industrial Classification System Manual, which has demonstrated to the satisfaction of the commissioner that it has the qualifications, including financial qualifications, necessary to carry out a business development project;

(k) "Implementing agency" means one of the following agencies designated by a municipality under section 32-223, as amended by this act: (1) An economic development commission, redevelopment agency; sewer authority or sewer commission; public works commission; water authority or water commission; port authority or port commission or harbor authority or harbor commission; parking authority or parking commission; (2) a nonprofit development corporation; or (3) any other agency designated and authorized by a municipality to undertake a project and approved by the commissioner;

[(l) "Manufacturing or economic base business" means a business classified in accordance with the standard industrial classification system of the Bureau of Census of the United States Department of Commerce as belonging to a major industry group numbered 20 to 39, inclusive; a business engaged in research and development directly related to (1) manufacturing, (2) agriculture, or (3) aquaculture; a business engaged in the creation or development of a vineyard or winery; a business engaged in the significant servicing, overhauling or rebuilding of machinery and equipment for industrial use; any business that is part of an economic cluster; or any establishment or auxiliary or operating unit thereof, as defined in the Standard Industrial Classification Manual, which the commissioner determines will materially contribute to the economy of the state by creating or retaining jobs, exporting products or services beyond the state's

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boundaries, encouraging innovation in products or services, adding value to products or services, or otherwise supporting or enhancing existing activities that are important to the economy of the state;]

[(m)] (l) "Municipal development project" means a business development project through which real property is acquired by a municipality or implementing agency as part of such project;

[(n)] (m) "Municipality" means a town, city, consolidated town and city or consolidated town and borough;

[(o)] (n) "Nonprofit organization" means a municipality or nonprofit corporation as defined in section 33-1002 and organized under the laws of this state and for purposes of this chapter includes any constituent unit of the state system of higher education;

[(p)] (o) "Planning commission" means a planning and zoning commission designated pursuant to section 8-4a or a planning commission created pursuant to section 8-19 of the 2008 supplement to the general statutes;

[(q)] (p) "Project" means a municipal development project or business development project;

[(r)] (q) "Project area" means the area within which a municipal development project or business development project is located;

[(s)] (r) "Real property" means land, buildings and other structures and improvements thereto, subterranean or subsurface right, any and all easements, air rights and franchises of any kind or nature;

[(t)] (s) "Site and infrastructure improvements" means improvements to: (1) Sanitary sewer facilities; (2) natural gas pipes, electric, telephone and telecommunications conduits and other facilities and waterlines and water supply facilities, except for any such

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pipes, wires, conduits, waterlines or any such pipes, wires, conduits, waterlines or facilities which a public service company, as defined in section 16-1 of the 2008 supplement to the general statutes, water company, as defined in section 25-32a, or municipal utility is required to install pursuant to any provision of the general statutes or any special act, regulation or order of the Department of Public Utility Control or a certificate of public convenience and necessity; (3) storm drainage facilities, including facilities to control flooding; (4) site grading, landscaping, environmental improvements, including remediation of contaminated sites, parking facilities, roadways and related appurtenances; (5) railroad spurs; (6) public port or docking facilities; and (7) such other related improvements necessary or appropriate to carry out the project;

[(u)] (t) "State" means the state of Connecticut;

[(v)] (u) "Targeted investment community" means a municipality which contains an enterprise zone designated pursuant to section 32-70;

[(w)] (v) "Total project cost" means costs of any kind or nature relating to the planning, implementation and completion of a municipal or business development project;

[(x)] "Defense diversification project" means a project undertaken during the period from July 1, 1991, to June 30, 1998, inclusive, by an eligible applicant, as defined in this subsection, involving any of the following: (1) Conversion or preparation for conversion of defense-related production to other types of production; (2) product diversification or capital, organizational or technological modernization by an eligible applicant engaged in defense-related production; (3) product diversification or conversion of business service activity for application or use in other than defense-related business by any subcontractor engaged in defense-related production

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or business service activity; (4) conversion by an eligible applicant of real property used in its entirety, or in part, for defense-related activity to a use primarily for other than defense-related activity, including use as a site related to the export of Connecticut products from the state for purposes of encouraging such exportation; (5) product diversification or conversion of business service activity by an eligible applicant engaged in production or business service activity which is not defense-related in a region of the state determined by the commissioner to be significantly impacted by the loss, or potential loss, of defense-related production or business service activity, including acquisition or development, or both, of real property by such applicant for purposes of such diversification or conversion; and (6) the creation or expansion of production, business service, research or research-related activities by an eligible applicant that will significantly increase employment opportunities for former employees of a contractor or subcontractor engaged in defense-related production. For purposes of any defense diversification project, as defined in this subsection, (A) "regional defense diversification plan" means a plan prepared or supported by an eligible applicant for purposes of (i) promoting or advocating defense diversification projects or (ii) supporting the retention of naval operations as an interim strategy for economic stability within a region seeking diversification, (B) "eligible applicant" means any for-profit or nonprofit organization, municipality, regional planning agency or any combination thereof and (C) "business service activity" means the rendering of any type of service to a business organization for consideration;]

[(y)] (w) "Legislative body" means (1) the board of selectmen in a town that does not have a charter, special act or home rule ordinance relating to its government, or (2) the council, board of aldermen, representative town meeting, board of selectmen or other elected legislative body described in a charter, special act or home rule ordinance relating to its government in a city, consolidated town and

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city, consolidated town and borough or a town having a charter, special act, consolidation ordinance or home rule ordinance relating to its government.

Sec. 3. Section 32-223 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) An eligible applicant shall submit an application for financial assistance to the commissioner on forms provided by the commissioner and with such information the commissioner deems necessary, including, but not limited to: (1) A description of the proposed project; (2) an explanation of the expected benefits of the project in relation to the purposes of sections 32-220 to 32-234, inclusive; (3) information concerning the financial and technical capacity of the eligible applicant to undertake the proposed project; (4) a project budget, and (5) identification, when appropriate, of business support services that may be of benefit to the state and the manufacturing and economic base businesses located or locating in the project area as part of the project. In the case of a municipal development project the eligible applicant shall, in addition to an application for financial assistance, submit a development plan prepared pursuant to subsection (b) of section 32-224 of the 2008 supplement to the general statutes and approved by the commissioner, provided an eligible applicant may, prior to the submission of a development plan, receive financial assistance for activities related to the planning of a municipal development project to the extent such assistance is provided for under subsection (b) of this section.

(b) Applications properly submitted shall be reviewed and may be approved, disapproved or modified by the commissioner. In reviewing an application and determining the type and amount of financial assistance, if any, to be provided, the commissioner shall consider the following criteria: (1) The availability of funds; (2) the relative economic condition of the municipality; (3) the relative need of the

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eligible applicant or project for financial assistance; (4) the degree to which financial assistance is necessary as an inducement to the eligible applicant to undertake the project or to the manufacturing or economic base business to locate or undertake the project in the state; (5) the relative economic benefit of the project to the state, including, but not limited to: (A) The extent to which the project will likely result in the retention and creation of jobs, the retention, expansion or relocation of manufacturing or economic base businesses in the state or the diversification of such businesses, or (B) the extent to which the project will increase competitiveness of such businesses, respond to potential or actual dislocation as a result of major plant closings or relocations and address the business service needs of such businesses and the state; and (6) such other criteria as the commissioner may establish consistent with the purposes of sections 32-220 to 32-234, inclusive. The commissioner shall not deny an application for financial assistance for a project solely because the project site does not have sewer service or access to sewer service.

(c) No financial assistance shall be given to an eligible applicant and no participation interest in a loan made by the Connecticut Development Authority for the benefit of an eligible applicant shall be purchased by the department until the commissioner has approved the application submitted in accordance with subsection (a) of this section. Notwithstanding any other provision of this section, in the event that the financial assistance requested is the purchase by the department of a participation interest in a loan made by the Connecticut Development Authority, such authority may submit such application and other information as is required of eligible applicants under subsection (a) of this section on behalf of such eligible applicant and no further application shall be required of such eligible applicant. No financial assistance shall exceed: (1) Except as otherwise provided in subdivisions (2) to (5), inclusive, of this subsection, fifty per cent of the total project cost, (2) in the case of financial assistance to any project in

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a targeted investment community, ninety per cent of the project cost, (3) when two or more municipalities which are not targeted investment communities jointly initiate a municipal development project in accordance with the provisions of subsection (e) of section 32-224 of the 2008 supplement to the general statutes, seventy-five per cent of the total project cost, (4) in the case of a municipal development project jointly initiated by two or more municipalities at least one of which is a targeted investment community, the sum of: (A) Seventy-five per cent of the portion of the total project cost allocable to the participation of the municipality or municipalities which are not targeted investment communities, and (B) ninety per cent of the portion of the total project cost allocable to the participation of any targeted investment community or communities, and (5) in the case of a defense diversification project, ninety per cent of the total project cost if the project involves a municipal development project or the acquisition or development, or both, of real property for an unspecified occupant, and one hundred per cent in the case of any other defense diversification project. A municipality's share of the total project cost, if any, may, with the approval of the commissioner, be satisfied entirely or partially from noncash contributions, including contributions of real property, from private sources, or, to the extent permitted by federal law, from moneys received by the municipality under any federal grant program.

(d) Financial assistance, whether provided directly to eligible applicants or indirectly in the form of the department's purchase of a participation interest in a loan made by the Connecticut Development Authority under sections 32-220 to 32-234, inclusive, may be used for (1) the planning of a municipal development project or business development project, including, but not limited to, the reasonable cost of feasibility studies, engineering, appraisals, market studies and related activities; (2) the acquisition of real property, machinery or equipment, or any combination thereof, provided such financial

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assistance shall not exceed fair market value; (3) the construction of site and infrastructure improvements relating to a municipal development or business development project; (4) the construction, renovation and demolition of buildings; (5) relocation expenses for the purpose of assisting [a manufacturing or other economic base business] an eligible applicant to locate, construct, renovate or acquire a facility; or (6) such other reasonable expenses necessary or appropriate for the initiation, implementation and completion of the project, including, but not limited to: (A) Administrative expenses of the eligible applicant; and (B) business support services in conjunction with another state agency when such agency does not provide adequate funds for such services or when no other state agency provides such services. The department may purchase participation interests in loans made by the Connecticut Development Authority for the foregoing purposes. All relocation assistance provided under sections 32-220 to 32-234, inclusive, to persons residing in the project area shall be in conformance with chapter 135.

(e) The commissioner may establish the terms and conditions of any financial assistance provided under sections 32-220 to 32-234, inclusive, except that the interest rate on any loans shall be determined by the State Bond Commission in accordance with subsection (t) of section 3-20. The commissioner may make any stipulation in connection with an offer of financial assistance he deems necessary to implement the policies and purposes of sections 32-220 to 32-234, inclusive, including, but not limited to the following: (1) The provision of assurances that the eligible applicant will discharge its obligations in connection with the project, and (2) a requirement that the eligible applicant provide the department with appropriate security for such financial assistance, including, but not limited to, a letter of credit, a lien on real property or a security interest in goods, equipment, inventory or other property of any kind.

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[(f) During the fiscal year ending June 30, 1993, the commissioner shall prepare a request for proposals soliciting applications for business development projects described in subdivision (3) of subsection (a) of section 32-222 and shall provide financial assistance to at least one eligible applicant for such a project.]

Sec. 4. Section 31-362g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section, "defense contract" includes any contract for the production or manufacture of weapons or other defense equipment to be used by the military or naval forces of this state or the United States, "defense contractor" means any contractor, subcontractor, manufacturer or service company which is a party to a defense contract and has agreed to produce or manufacture weapons or defense equipment under such contract and "value" means gross value.

(b) Each defense contractor which (1) performs one or more defense contracts in this state, the combined value of which exceeds one million dollars in any one year, and (2) after October 1, 1994, is the recipient of state assistance [provided pursuant to section 32-222a] or other funds from the Department of Economic and Community Development shall establish an alternative use committee. The committee shall consist of representatives of employees and employers. The employees of such contractor who are represented by a collective bargaining organization shall be represented on such committee by a representative of such organization. The employees of such contractor who are not represented by a collective bargaining organization shall designate a person to serve as their representative. The committee may invite representatives of the community to participate in committee meetings. The committee shall prepare a plan to reduce or eliminate the dependence of the contractor on defense contracts. The plan shall include: (A) Alternative products that are

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feasible to produce and marketable; and (B) retraining resources needed to produce such products in order to avoid dislocation of the current workforce. The Labor Commissioner shall adopt regulations pursuant to chapter 54 to administer the establishment and composition of alternate use committees and the committee's duty to establish plans pursuant to this subsection.

Sec. 5. (*Effective from passage*) Sections 32-4a and 32-222a of the general statutes are repealed.

Approved May 7, 2008