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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2854

03/14/2012 Authored by Lanning, Hamilton, Murray, Vogel, Kiel and others
The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance

A bill for an act

relating to workforce development; establishing a new jobs training program; providing a credit against withholding tax liability; establishing accounts; authorizing administrative rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116L.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[116L.40] DEFINITIONS.**

Subdivision 1. **Scope.** When used in sections 116L.40 to 116L.44, the following terms have the meanings given them unless the context requires otherwise.

Subd. 2. **Agreement.** "Agreement" means the agreement between an employer and the commissioner concerning a project.

Subd. 3. **Community.** "Community" means any of the following:

(1) the city, whether organized as a statutory or home rule charter city, or the county in which an eligible primary sector business is or will be located;

(2) an economic development authority, housing and redevelopment authority, port authority, or an institution of higher education that provides workforce training; or

(3) any other group or entity, the interest of which is in the economic growth of the area.

Subd. 4. **Date of commencement of the project.** "Date of commencement of the project" means the date of the agreement.

Subd. 5. **Department.** "Department" means the Department of Employment and Economic Development.

Subd. 6. **Employee.** "Employee" means the individual employed in a new job.

Subd. 7. **Employer.** "Employer" means the individual, corporation, partnership, limited liability company, or association providing new jobs and entering into an agreement.

Subd. 8. **Full-time job.** "Full-time job" means a job providing 32 hours of work per week for a minimum of nine months.

Subd. 9. **New job.** "New job" means a full-time job in a new or expanding primary sector business. To qualify, a job must be permanent with no planned termination date. The term does not include recalled workers returning to positions they previously held, replacement workers, including workers newly hired as a result of a labor dispute, or other jobs that an employee was formerly employed by the employer in the state.

Subd. 10. **New jobs credit from withholding; credit.** "New jobs credit from withholding" or "credit" means the credit as provided in section 116L.42.

Subd. 11. **New jobs training program; program.** "New jobs training program" or "program" means the project or projects established by the commissioner to provide workers with education and training required for jobs in new or expanding primary sector businesses in the state.

Subd. 12. **Primary sector business.** "Primary sector business" means an employer engaged in locating to or in this state that previously had no presence in this state or an employer expanding its operations within this state, if the employer meets the following eligibility criteria:

(1) the employer enters an agreement with the commissioner and (i) increases its base employment level by ten percent, or two employees, whichever is greater, or (ii) for an employer without an established base employment level in this state, hires a minimum of five employees within the time set in the agreement; and

(2) each of the employees qualifying under clause (1) is employed at a location outside of the metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 13. **Program costs.** "Program costs" means all necessary and incidental costs of providing program services. The term does not include the cost of purchasing equipment to be owned or used by the training or educational institution or service.

Subd. 14. **Program services.** "Program services" means training and education specifically directed to new jobs, including the following:

(1) all direct training costs, such as:

(i) program promotion;

(ii) instructor wages, per diem, and travel;

(iii) curriculum development and training materials;

(iv) lease of training equipment and training space;

(v) miscellaneous direct training costs;

(vi) administrative costs; and

(vii) assessment and testing;

(2) in-house or on-the-job training; and

(3) subcontracted services with institutions governed by the state board of higher education; private colleges or universities; federal, state, or local agencies; or other private training or educational services.

Subd. 15. **Project.** "Project" means a training arrangement that is the subject of an agreement entered into between the commissioner and an employer to provide program services.

Sec. 2. **[116L.41] COMMISSIONER'S DUTIES AND POWERS; AGREEMENTS.**

Subdivision 1. **Service provision.** Upon request, the commissioner shall provide or coordinate the provision of program services to primary sector businesses that are eligible for grants under sections 116L.40 to 116L.44.

Subd. 2. **Agreements; required terms.** (a) The commissioner may enter into an agreement to establish a project with an employer that:

(1) sets a date for commencement of the project;

(2) identifies program costs, including deferred costs, to be paid from available sources including the new jobs credit from withholding to be received or derived from new jobs resulting from the project;

(3) provides for a guarantee by the employer of payment for program costs;

(4) provides that any deferral of program cost payments may not exceed ten years from the date of commencement of the project;

(5) provides that on-the-job training costs for employees may not exceed 50 percent of the annual gross wages and salaries of the new jobs in the first full year after the date of commencement of the project;

(6) provides the maximum amount of new jobs credit from withholding or tuition and fee payments allowed for a project;

(7) provides that every employee participating in the new jobs training program must be paid wages of at least $10 per hour, plus benefits, by the end of the first year of employment under the project and through the period the credit under section 116L.42 applies; and

(8) provides that the length of time each job category will be provided job training, which must not exceed the length of allowable on-the-job training in a

vocational preparation guide of the dictionary of occupational titles, as designated by the commissioner, for that job title or for similar jobs.

(b) Before entering a final agreement, the commissioner shall:

(1) determine that sufficient funding authority for the project is available under section 116L.44; and

(2) investigate the applicability of other training programs and determine whether the job skills partnership grant program is a more suitable source of funding for the training. The investigation must be completed within 15 days or as soon as reasonably possible after the employer has provided the commissioner with all the requested information.

Subd. 3. **Agreement required; notification.** (a) An agreement may not be executed by the commissioner:

(1) unless the commissioner has awarded the project a grant under section 116L.43; or

(2) until the commissioner has received notification from the community that the employer has qualified for a grant.

(b) Upon execution of the agreement, the commissioner shall notify the commissioner of revenue of the agreement and the identity of the employer.

Subd. 4. **Allocation of limit.** The commissioner shall allocate funding authority for credits under section 116L.44 to project applications based on a first-come first-served basis, determined on the basis of the commissioner's receipt of a complete application for the project, including the provision of all of the required information.

Subd. 5. **Application fee.** The commissioner may charge each applicant an application fee to cover part or all of the administrative and legal costs incurred. If the fee does not exceed five percent of the amount of the credit allocated to the applicant, the fee is deemed approved under section 16A.1283. The fee is deposited in the new jobs tax credit account in the special revenue fund and amounts in the account are appropriated to the commissioner for the department's costs of administering the program.

Subd. 6. **Rulemaking authority.** The commissioner may adopt administrative rules under chapter 14 to implement the provisions of sections 116L.40 to 116L.44.

Sec. 3. **[116L.42] NEW JOBS CREDIT FROM WITHHOLDING TAX.**

Subdivision 1. **Recovery of program costs; withholding credit.** Grants made under section 116L.43 for program costs must be repaid by receipt of a new jobs credit from withholding as follows:

(1) new jobs credit from withholding is based on the wages paid to the new employees;

(2) the income tax withholding on wages paid by the employer to each new employee participating in a project must be credited from the withholding payments made by the employer under section 290.92; and

(3) the commissioner of revenue shall transmit the equivalent credit payment amount to the commissioner of management and budget to be allocated to the account established under subdivision 2 for payment to the department, community, or both, as the case may be, of reimbursement of the amount of grants made under section 116L.43.

Subd. 2. **Credit accounts.** The commissioner of management and budget shall establish accounts and records as necessary to administer the new jobs credit. If the grant was made by a community out of its funds, the commissioner of management and budget shall pay the credit amount to the community. If the grant was made out of the appropriation under section 116L.43, the credit amount is canceled to the general fund. If the grant was made from other money available to the department, the credit must be paid to the appropriate fund or account as provided under that funding source. All money allocated by subdivision 1 is appropriated for purposes of this section. When the amount of the grant has been repaid, the employer credits cease, but in no case later than ten years after the date of the commencement of the project. Any money in the account for a project after the grant for the project has been paid is canceled to the general fund.

Subd. 3. **Effect on employee income tax liability.** A new employee participating in a project must receive full credit for the amount withheld under section 290.92 for purposes of the employee's tax liability under chapter 290.

Subd. 4. **Administration.** (a) The commissioner of revenue and the commissioner of management and budget shall administer this section. The provisions of section 290.92 pertaining to the administration of the income tax withholding, including provisions for refund or credit, not in conflict with the provisions of sections 116L.40 to 116L.44, govern the administration of the credit provided by this section.

(b) Each participating employer shall provide any information the commissioner of revenue requires.

(c) The commissioner of revenue and the commissioner of management and budget may adopt administrative rules under chapter 14 to aid in the administration of this section.

Sec. 4. **[116L.43] PROGRAM FUNDING; APPROPRIATION.**

(a) Funding for programs must be through grants as provided under sections 116L.40 to 116L.44. For the purposes of making grants under the program, $10,000,000 is appropriated to the commissioner from the general fund for each fiscal year beginning after June 30, 2012, until the program expires under section 116L.44. The annual amount

available for grants under the appropriation is reduced by the amount of credits allocated to projects qualifying for grants from a community for which the commissioner has been notified under section 116L.41, subdivision 3, paragraph (a), clause (2), and by any grants the department awards out of other funding sources.

(b) The department or a community may also make grants out of any of its available money to fund the programs.

(c) A community may fund a program through a grant without use of the new jobs credit under section 116L.42.

Sec. 5. **[116L.44] FUNDING LIMIT; REPORT; EXPIRATION.**

Subdivision 1. **Funding limit.** The maximum amount of credits under section 116L.42 is limited to $10,000,000 per year. The commissioner must not enter into agreements under section 116L.42 that authorize training to be reimbursed by credits under section 116L.43 in excess of the limitation in this subdivision.

Subd. 2. **Report.** (a) By February 1, 2015, the commissioner shall prepare a report to the governor and the legislature on the new jobs training program. The report must include at least the following:

(1) the amount of loans and grants issued under the program;

(2) the number of individuals receiving training under the program;

(3) the number of new hires attributable to issuance of the credit;

(4) an analysis of the effectiveness of the credit in encouraging employment; and

(5) any other information the commissioner determines is appropriate to evaluating the cost-effectiveness of the program and credit.

(b) The report to the legislature must be distributed as provided in section 3.195.

Subd. 3. **Expiration.** The authority of the commissioner to enter agreements authorizing new training under section 116L.42 expires June 30, 2017.