

2017 -- S 0921

LC002714

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO TOWNS AND CITIES -- INDUSTRIAL FACILITIES CORPORATION

Introduced By: Senators Gallo, Conley, Goodwin, Lynch Prata, and Lombardi

Date Introduced: May 30, 2017

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-37.1-9 and 45-37.1-9.1 of the General Laws in Chapter 45-37.1
2 entitled "Industrial Facilities Corporation" are hereby amended to read as follows:

3 **45-37.1-9. Exemption from taxation.**

4 (a) The exercise of the powers granted by this chapter will be in all respects for the
5 benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and
6 for the improvement of their health and living conditions, and will constitute the performance of
7 an essential government function, and the corporation is not required to pay any taxes or
8 assessments upon or in respect of a project, or any property or moneys of the corporation, levied
9 by any municipality or political subdivision of the state, nor is the corporation required to pay
10 state taxes of any kind, and the corporation, its projects, property, and moneys, and any bonds and
11 notes issued under the provisions of this chapter, their transfer and the income from them,
12 including any profit made on their sale, are at all times free from taxation of every kind by the
13 state and by the municipalities and all other political subdivisions of the state, and the corporation
14 is not required to pay any transfer tax of any kind on account of instruments recorded by or on its
15 behalf or in connection with the financing of any of its projects; provided, that any person,
16 partnership, corporation, or concern leasing a project from the corporation shall pay to the city,
17 town, school district, or other political subdivision or special district having taxing powers, in
18 which the project is located, a payment in lieu of taxes which equals the taxes on real and
19 personal property which the lessee would have been required to pay, had it been the owner of the

1 property during the period for which the payment is made, and under no circumstances are the
2 corporation or its projects, properties, money, bonds, or notes obligated, liable, or subject to a lien
3 of any kind for their enforcement, collection, or payment; and provided, further, that in the case
4 of any person, partnership, corporation, or concern leasing a project from the corporation any
5 such person, partnership, corporation or concern so ~~leased~~ leasing shall be exempt from payment
6 of state sales tax applicable to materials used in construction, reconstruction or rehabilitation of
7 such a facility or project or to the acquisition of furniture, fixtures and equipment, excepting
8 automobiles, trucks, and other motor vehicles and only to the extent that the costs of such
9 materials, furniture, fixtures and equipment do not exceed the amount financed through the
10 corporation.

11 (b) If and to the extent the proceedings under which the bonds or notes authorized to be
12 issued under the provisions of this chapter so provide, the corporation may agree to cooperate
13 with the lessee of a project in connection with any administrative or judicial proceedings for
14 determining the validity or amount of payments, and may agree to appoint or designate and
15 reserve the right in and for the lessee to take all action which the corporation may lawfully take in
16 respect of those payments and all matters relating to them, provided, that the lessee bears and pay
17 all costs and expenses of the corporation thereby incurred at the request of the lessee or by reason
18 of any action taken by the lessee in behalf of the corporation. Any lessee of a project, which has
19 paid the amounts in lieu of taxes required by the first sentence of this section, is not required to
20 pay any taxes for which a payment in lieu thereof has been made to the state or to any city, town,
21 school district, or other political subdivision or special district having taxing powers,
22 notwithstanding any other statute to the contrary.

23 **45-37.1-9.1. Procedure.**

24 (a) An exemption from payment of state sales tax shall only apply to projects approved
25 prior to ~~July 1, 2011~~ after June 30, 2017, and shall be applicable to materials used in construction
26 of a facility or to furniture, fixtures and equipment (excepting automobiles, trucks, and other
27 motor vehicles) only to the extent that the costs of such materials do not exceed the amount
28 financed through the corporation as required in § 45-37.1-9. ~~shall be deemed to have been~~
29 ~~authorized thirty (30) days from the date of the completion by the corporation of an economic~~
30 ~~analysis that shall include:~~

- 31 (1) ~~A full description of the project to which the tax exemption is related; and~~
32 (2) ~~The corporation's analysis of the impact of the proposed project will or may have on~~
33 ~~the state. The analysis shall be supported by such appropriate data and documentation and shall~~
34 ~~consider, but not be limited to, the following factors:~~

- 1 (i) ~~The impact on the industry or industries in which the completed project will be~~
2 ~~involved;~~
- 3 (ii) ~~State fiscal matters, including the state budget (revenues and expenses);~~
- 4 (iii) ~~The financial exposure of the taxpayers of the state under the plans for the proposed~~
5 ~~project and negative foreseeable contingencies that may arise therefrom;~~
- 6 (iv) ~~The approximate number of jobs projected to be created, construction and~~
7 ~~nonconstruction;~~
- 8 (v) ~~Identification of geographic sources of the staffing for identified jobs;~~
- 9 (vi) ~~The projected duration of the identified construction jobs;~~
- 10 (vii) ~~The approximate wage rates for the identified jobs;~~
- 11 (viii) ~~The types of fringe benefits to be provided with the identified jobs, including~~
12 ~~healthcare insurance and any retirement benefits;~~
- 13 (ix) ~~The projected fiscal impact on increased personal income taxes to the state of Rhode~~
14 ~~Island; and~~
- 15 (x) ~~The description of any plan or process intended to stimulate hiring from the host~~
16 ~~community, training of employees or potential employees and outreach to minority job applicants~~
17 ~~and minority businesses.~~

18 (b) For purposes of the exemption from taxes and assessments for any project of the
19 corporation held by a lessee of the corporation under ~~section 9 of this chapter~~ [§45-37.1-9](#) and
20 subsection (a) of this section, any such project shall be subject to the following additional
21 requirements:

22 (1) The total sales tax exemption benefit to the lessee will be implemented through a
23 reimbursement process as determined by the division of taxation rather than an up-front purchase
24 exemption; .

25 (2) The sales tax benefits granted pursuant to section 9 of this chapter shall: (i) only apply
26 to projects approved prior to ~~July 1, 2011~~ [after June 30, 2017](#), (ii) only apply to materials used in
27 the construction, reconstruction or rehabilitation of the project and to the acquisition of furniture,
28 fixtures and equipment, except automobiles, trucks or other motor vehicles, [and \(iii\) may not](#)
29 [apply to any single project in an amount in excess of ten million dollars \(\\$10,000,000\) for](#)
30 [materials, furniture, fixtures, and equipment.](#) ~~or materials that otherwise are depreciable and have~~
31 ~~a useful life of one year or more, for the project for a period not to exceed six (6) months after~~
32 ~~receipt of a certificate of occupancy for any given phase of the project for which sales tax benefits~~
33 ~~are utilized; and (ii) not exceed an amount equal to the income tax revenue received by the state~~
34 ~~from the new full time jobs with benefits excluding project construction jobs, generated by the~~

1 ~~project within a period of three (3) years from after the receipt of a certificate of occupancy for~~
2 ~~any given phase of the project. For purposes of this section, "full time jobs with benefits" means~~
3 ~~jobs that require working a minimum of thirty (30) hours per week within the state, with a median~~
4 ~~wage that exceeds by five percent (5%) the median annual wage for the preceding year for full-~~
5 ~~time jobs in Rhode Island, as certified by the department of labor and training, with a benefit~~
6 ~~package that is typical of companies within the lessee's industry.~~

7 (3) ~~The corporation shall transmit the analysis required under section 9 of this chapter to~~
8 ~~the house and senate fiscal committee chairs, the department of labor and training and the~~
9 ~~division of taxation promptly upon completion. Annually thereafter, the department of labor and~~
10 ~~training shall certify to the house and senate fiscal committee chairs, the house and senate fiscal~~
11 ~~advisors, the corporation and the division of taxation the actual number of new full time jobs with~~
12 ~~benefits created by the project, in addition to construction jobs, and whether such new jobs are on~~
13 ~~target to meet or exceed the estimated number of new jobs indentified in the analysis above. This~~
14 ~~certification shall no longer be required when the total amount of new income tax revenue~~
15 ~~received by the state exceeds the amount of the sales tax exemption benefit granted above. In~~
16 ~~order for a project to be exempt from payment of sales tax, the corporation shall specifically~~
17 ~~designate by resolution in writing for each project, the portion or dollar amount of the project, if~~
18 ~~any, exempt from state sales tax as provided in §45-37.1-9, but in no event shall a project amount~~
19 ~~exceed ten million dollars (\$10,000,000) per project.~~

20 (4) ~~The department of labor and training shall certify to the house and senate fiscal~~
21 ~~committee chairs and the division of taxation that jobs created by the project are "new jobs" in the~~
22 ~~state of Rhode Island, meaning that the employees of the project are in addition to, and without a~~
23 ~~reduction of, those employees of the lessee currently employed in Rhode Island, are not relocated~~
24 ~~from another facility of the lessee's in Rhode Island or are employees assumed by the lessee as~~
25 ~~the result of a merger or acquisition of a company already located in Rhode Island. Additionally,~~
26 ~~the corporation, with the assistance of the lessee, the department of labor and training, the~~
27 ~~department of human services and the division of taxation shall provide annually an analysis of~~
28 ~~whether any of the employees of the project qualify for RIte Care or RIte Share benefits and the~~
29 ~~impact such benefits or assistance may have on the state budget. By September 1, 2018, and by~~
30 ~~the same day of each year thereafter, the corporation shall report the name and address of each~~
31 ~~business for which the corporation approved a project for the previous fiscal year to the division~~
32 ~~of taxation together with the dollar amount designated by the corporation in subsection (b)(3) of~~
33 ~~this section.~~

34 (5) ~~Notwithstanding any other provision of law, the division of taxation, the department~~

1 ~~of labor and training and the department of human services are authorized to present, review and~~
2 ~~discuss lessee specific tax or employment information or data with the corporation, the house and~~
3 ~~senate fiscal committee chairs, and/or the house and senate fiscal advisors for the purpose of~~
4 ~~verification and compliance with this resolution; and~~ No borrower having a project approved for
5 exemption from payment of sales tax as provided in this chapter shall be eligible to avail itself of
6 any incentives offered by the state and administered by the Rhode Island commerce corporation
7 established pursuant to chapter 64 of title 42 for a period of three (3) years following the date the
8 project was approved by the corporation.

9 (6) ~~The corporation and the project lessee shall agree that, if any time prior to the state~~
10 ~~recouping the amount of the sales tax exemption through new income tax collections from the~~
11 ~~project, not including construction job income taxes, the lessee will be unable to continue the~~
12 ~~project, or otherwise defaults on its obligations to the corporation, the lessee shall be liable to the~~
13 ~~state for all the sales tax benefits granted to the project plus interest, as determined in RIGL 44-1-~~
14 ~~7, calculated from the date the lessee received the sales tax benefits. The sales tax exemption shall~~
15 ~~only apply to projects approved prior to July 1, 2011.~~

16 SECTION 2. This act shall take effect on July 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- INDUSTRIAL FACILITIES CORPORATION

1 This act would exempt projects governed by the "Rhode Island industrial facilities
2 corporation act" and approved after June 30, 2017, from the payment of sales tax applicable to
3 materials, furniture, fixtures and equipment used in the construction, reconstruction or
4 rehabilitation of the project; provided, however, in no event may a project amount exceed the sum
5 of ten million dollars (\$10,000,000) per project. This act would further provide that no project
6 approved for exemption from the payment of sales tax would be eligible for any incentives
7 offered by the state, and administered by the commerce corporation, for a period of three (3)
8 years following the project's approval date.

9 This act would take effect on July 1, 2017.

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