



State of Tennessee

PUBLIC CHAPTER NO. 415

HOUSE BILL NO. 1342

By Mr. Speaker Sexton and Representatives Vital, Vaughan, Alexander, Hardaway, Zachary, Russell, Gant, Ragan, Moody, Helton-Haynes, Littleton, Tim Hicks, Williams, Brock Martin, Grills, Garrett, Powers, Cepicky, Howell, Todd

Substituted for: Senate Bill No. 650

By Senators Johnson, Jackson, Stevens, Rose, White

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 50, relative to economic development.

WHEREAS, Tennessee, as part of its economic development policy, has the right to set terms and conditions in connection with the awarding of economic development incentives; and

WHEREAS, Tennessee, as part of its economic development policy, seeks to play an integral role in the formulation of economic opportunities, conditions of grants, and general management of compliance with such awards for monies; and

WHEREAS, Tennessee will oftentimes, as part of awarding economic development incentives, oversee compliance with land use regulations, including management of the subdivision of property; offer and provide water and wastewater services; require fire protection systems and mechanical systems for buildings and structures; approve capital grants; and ensure such monies are approved by the State Building Commission; and

WHEREAS, Tennessee will oftentimes, as part of awarding economic development incentives, also require a private business to hire a certain number of new full-time employees, require a specific amount of company investment, and ensure workers obtain certain skills and knowledge; and

WHEREAS, Tennessee, as part of its economic development policy, has a vested interest in seeking to advance and preserve its own interest in projects receiving economic development incentives as a financier of projects contributing to the State's overall economic health; and

WHEREAS, it is the intent of the General Assembly, as part of its economic development policy, that whenever State funds or benefits are sought by a private business that such benefits are conditioned on the private business agreeing not to waive its employees' right to a secret ballot election when recognizing a labor organization as a bargaining unit or requiring subcontractors to waive their employees' right to a secret ballot election; and

WHEREAS, it is the intent of the General Assembly that whenever State funds or benefits are provided or awarded to a private business, the private business, or subcontractors working on a project receiving State funds or benefits, shall not voluntarily disclose employee personal contact information to a labor organization without an employee's prior consent; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 3, Part 7, is amended by adding the following as a new section:

4-3-739.

(a) As used in this section:

(1) "Contracts" includes:

(A) Agreements between an employer and the state; and

(B) Agreements between an employer and a labor organization;

(2) "Economic development incentive" means a FastTrack job training grant and economic development grant authorized under this part or capital grant authorized under chapter 15 of this title for economic development purposes provided to an employer to attract or retain the employer's physical presence in this state;

(3) "Employee" means an individual who performs services for an employer for wages that are subject to withholding requirements under 26 U.S.C. § 3402;

(4) "Employer" means a business entity that voluntarily pursues economic development incentives authorized under this title or enters into an agreement with this state for the purpose of receiving those incentives;

(5) "Labor organization" has the same meaning as defined in 29 U.S.C. § 152;

(6) "Personal contact information" means an employee's home address, home or personal cell phone number, or personal email address;

(7) "Secret ballot election" means a process conducted by the national labor relations board (NLRB) in which an employee casts a secret ballot for or against labor organization representation; and

(8) "Subcontractor" means an individual or entity that has contracted with the employer to perform work or provide services.

(b)

(1) To be eligible for an economic development incentive, an employer must not:

(A) Grant recognition rights for employees solely and exclusively on the basis of signed union authorization cards if the selection of a bargaining representative may instead be conducted through a secret ballot election conducted by the national labor relations board (NLRB);

(B) Voluntarily disclose an employee's personal contact information to a labor organization, or third party acting on behalf of a labor organization, without the employee's prior written consent, unless otherwise required by state or federal law; or

(C) Require a subcontractor performing work for or providing services to the employer to engage in activities prohibited in this subdivision (b)(1).

(2) The prohibitions set out in subdivision (b)(1) apply to any work or service for the employer on the project for which the economic incentive is provided.

(c) A person or entity may report, based upon a reasonable belief, a suspected violation of subdivision (b)(1) to the department of economic and community development; provided, that such report must be made during the term of the separate agreement entered into by and between the department of economic and community development and the employer pursuant to § 4-3-731(f). Upon receiving a report pursuant to this subsection (c), the department of economic and community development shall determine whether a violation has occurred by obtaining in writing a statement from the employer verifying whether a secret ballot election has been held. It is a breach of the separate agreement entered into between the department of economic and community development and the employer pursuant to § 4-3-731(f) for the employer to refuse to provide the written statement. If the department of economic and community development finds that an employer has violated subdivision (b)(1), then the department

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shall deliver written notice of the department's findings to the employer informing the employer and to the office of the attorney general and reporter to initiate proceedings to recover any funds pursuant to § 4-3-731(f).

(d)

(1) This section applies prospectively and excludes:

(A) An agreement between this state and an employer executed prior to the effective date of this act;

(B) An agreement between an employer and a labor organization executed prior to the effective date of this act;

(C) An agreement between this state and an employer for a project located on the Megasite of West Tennessee, as those terms are defined in § 64-9-103, entered into prior to July 1, 2024; or

(D) An economic development incentive issued for purposes of expansion of operations at an existing facility where a labor bargaining unit at such site was organized prior to the effective date of this act.

(2) As used in subdivision (d)(1)(A), "agreement" includes a memorandum of understanding mutually accepted by the department of economic and community development and an employer prior to the effective date of this act, including a legally binding agreement subsequent and subject to the memorandum of understanding.

SECTION 2. Tennessee Code Annotated, Section 4-3-731, is amended by adding the following as a new subsection:

(f)

(1) Notwithstanding another law to the contrary, prior to contracting to award an economic development incentive, as defined in § 4-3-739, the department of economic and community development must execute a separate agreement with the recipient of the incentive that reserves the right of the department to recover the amount of money, grants, funds, or other incentives disbursed by the department, in whole or in part, if the recipient benefitting from such money, grants, funds, or other incentives fails to comply with § 4-3-739.

(2) The separate agreement required by subdivision (f)(1) must have a term of not less than:

(A) The term the department would require for an agreement executed pursuant to § 4-3-731(d), for an economic development incentive of less than twenty-five million dollars (\$25,000,000); or

(B) Ten (10) years, for an economic development incentive of twenty-five million dollars (\$25,000,000) or more.


SECTION 3. This act takes effect July 1, 2023, the public welfare requiring it, and, except as otherwise provided in this act, applies to contracts executed, renewed, or modified on or after that date.

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PASSED: April 21, 2023



CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 11th day of May 2023



BILL LEE, GOVERNOR