

SENATE BILL No. 324

AN ACT concerning economic development; relating to entrepreneurship, eminent domain and workforce development; amending K.S.A. 2005 Supp. 12-1773, 74-50,154, 74-99c02, 74-99c05 and 74-99c09 and repealing the existing sections; also repealing K.S.A. 2005 Supp. 74-99c06.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2005 Supp. 74-50,154 is hereby amended to read as follows: 74-50,154. (a) As used in this act: (1) “Contributions” means and includes the donation of cash, ~~services~~ or property other than used clothing in an amount or value of \$250 or more. Contributions shall be valued as follows:

(A) Stocks and bonds contributed shall be valued at the stock market price on the date of transfer;

(B) personal property items contributed shall be valued at the lesser of the item’s fair market value or cost to the donor and may be inclusive of costs incurred in making the contribution. Such value shall not include sales tax;

(C) contributions of real estate are allowable for credit only when title of such real estate is in fee simple absolute and is clear of any encumbrances; and

(D) the amount of credit allowable shall be based upon the lesser of two current independent appraisals conducted by state licensed appraisers;

(2) “region” means multi-county areas as defined by the secretary of commerce;

(3) “regional foundation” means any organization in Kansas that demonstrates capacity to provide economic development services to regions as defined by this act, and: (A) Has obtained a ruling from the internal revenue service of the United States department of treasury that such organization is exempt from income taxation under the provisions of section 501(c)(3) or 501(c)(6) of the federal internal revenue code;

(B) has been designated as a certified development company by the United States small business administration;

(C) has been designated as an economic development district by the United States department of commerce’s economic development administration;

(D) has been organized as a regional planning commission under K.S.A. 12-744 et seq., and amendments thereto, or its predecessor, K.S.A. 12-716 et seq., and amendments thereto; or

(E) is incorporated in the state of Kansas as a nonstock, nonprofit corporation;

(4) “rural community” means any city having a population of fewer than 50,000 or except as otherwise provided, any unincorporated area. Unincorporated areas within any county having a population of more than 100,000 are not eligible; and

(5) “taxpayer” means: (A) Any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act;

(B) any individual subject to the state income tax imposed by the provisions of the Kansas income tax act;

(C) any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated; or

(D) any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto.

(b) For taxable years commencing after December 31, ~~2003~~ 2004, any taxpayer contributing to a regional foundation designated by the secretary of commerce, shall be allowed a credit, as provided in this act, against the tax imposed by the Kansas income tax act, the tax on net income of national banking associations, state banks, trust companies or savings and loan associations imposed under article 11 of chapter 79 of the Kansas Statutes Annotated, or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, if the proposal of the regional foundation is approved pursuant to this act.

(c) (1) The secretary of commerce is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating proposals to designate regional foundations as defined by this act with the assistance of the secretary of revenue.

(2) The proposal shall set forth the program to be conducted, why

the program is needed, the estimated amount to be invested in the program, composition of the board that shall be making investment decisions, policies stating the organization shall offer services to all counties in that region and the plans for implementing the program.

(3) The secretary of commerce shall select regional foundations pursuant to rules and regulations promulgated pursuant to subsection (c)(1) to use the sale of credits to establish regional business development funds.

(4) The total amount of credits allowed under this act shall not exceed \$2,500,000 for fiscal year 2005; \$2,500,000 for fiscal year 2006; and \$2,000,000 for fiscal year 2007. Each region as defined by this act shall receive an equal share of this allocation.

(5) Any credits not sold by such regional foundations shall be reclaimed by the secretary from such region and redistributed to other regions that sold all credits previously issued.

(6) The secretary shall annually review and approve or disapprove the proposal of each designated regional foundation for continued eligibility for tax credits. The department of commerce retains that right to reclaim credits in such cases the regional foundation closes or there is demonstrated violation of the organization's policies. Changes to the investment policies of each regional foundation are subject to approval of the secretary.

(d) (1) The amount of credit allowed pursuant to this act, shall not exceed ~~50%~~ 75% of the total amount contributed during the taxable year by the taxpayer to a regional foundation approved pursuant to this act.

(2) If the amount of the credit allowed by this act, exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

(e) The provisions of this act shall be applicable to all taxable years beginning after December 31, ~~2003~~ 2004.

Sec. 2. K.S.A. 2005 Supp. 74-99c02 is hereby amended to read as follows: 74-99c02. As used in this act, unless the context clearly requires otherwise:

(a) "Banking industry" means banks, savings and loan associations and credit unions;

(b) ~~"cash donation" means money or its equivalent contributed to the Kansas community entrepreneurship fund~~ "contribution" means and includes the donation of cash or property other than used clothing in an amount or value of \$250 or more. Contributions shall be valued as follows:

(1) Stocks and bonds contributed shall be valued at the stock market price on the date of transfer;

(2) personal property items contributed shall be valued at the lesser of the item's fair market value or cost to the donor and may be inclusive of costs incurred in making the contribution. Such value shall not include sales tax;

(3) contributions of real estate are allowable for credit only when title of such real estate is in fee simple absolute and is clear of any encumbrances; and

(4) the amount of credit allowable shall be based upon the lesser of two current independent appraisals conducted by state licensed appraisers;

(c) "center" means the Kansas center for entrepreneurship;

(d) "department" means the department of commerce;

(e) "distressed community" means an area in which 20% or more of the population of all ages for each census tract located within the area has an income below poverty level as reported in the most recently completed decennial census published by the United States bureau of the census;

(f) "fund" means the Kansas community entrepreneurship fund;

(g) ~~"investor" means a person making a cash donation in the Kansas community entrepreneurship fund in an amount of \$250 or more~~ "contributor" means a person or entity making a contribution to the Kansas center for entrepreneurship;

(h) "Kansas business" means any business owned by an individual, any partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that does business primarily in Kansas or does substantially all of its production in Kansas;

- (i) “member” means a member of the board of directors;
- (j) “qualified entrepreneur” means an entrepreneur who has exhibited a financial commitment to the business ~~and~~ *or* who has proven business experience or who possesses either a bachelor or master of business administration degree or who has completed course work as directed by the Kansas center for entrepreneurship that certifies the individual as a qualified entrepreneur;
- (k) “regional and community organization” means a not-for-profit organization properly organized under Kansas statutes to provide funds to start-up entrepreneurs through loans, grants or agreements with financial institutions;
- (l) “rural community” means any city having a population of fewer than 50,000 or except as otherwise provided, any unincorporated area. Unincorporated areas within any county having a population of more than 100,000 are not eligible;
- (m) “secretary” means the secretary of the department of commerce; and
- (n) “seed capital” means financing that is provided for the development, refinement and commercialization of a product, process or innovation whether for the startup of a new firm, the expansion or the restructuring of a small firm.

Sec. 3. K.S.A. 2005 Supp. 74-99c05 is hereby amended to read as follows: 74-99c05. (a) The state shall provide an annual appropriation to fund the salaries and operating expenses of the center, as well as research and evaluation activities conducted at the request of the executive or legislative branches. Private funds ~~shall~~ *and other funds may* be raised to support the economic development research and education programs and related activities *center in fulfillment of its purposes and duties.*

(b) The center may ~~use the Kansas community entrepreneurship fund, created in K.S.A. 2005 Supp. 74-99c09, and amendments thereto,~~ to carry out the purposes of this act by awarding funds to regional and community organizations that provide seed capital to qualified entrepreneurs with an emphasis on those located in distressed and rural communities, as defined in K.S.A. 2005 Supp. 74-99c02, and amendments thereto. *The center may use up to 10% of the fund its balance on as of July 1 of the each year may be used for operations of to administer* the center. Awards of the remainder of the funds shall be made on a competitive basis.

(c) The Kansas center for entrepreneurship is authorized to enter into contracts with, and to receive donations, contributions and grants from individuals, corporations, private foundations and other governmental and non-governmental entities ~~for the purpose of~~ *in* fulfilling its ~~mission purposes~~ and duties. It may also receive in-kind contributions in the form of personnel, services, equipment or other items of value.

(d) An annual financial report shall be made to the board of directors which itemizes and accounts for the receipt and expenditure of all state and non-state funds and contributions received.

Sec. 4. K.S.A. 2005 Supp. 74-99c09 is hereby amended to read as follows: 74-99c09. (a) ~~The Kansas community entrepreneurship fund is hereby created in the state treasury to which shall be credited any state or other funds specifically so designated. The secretary may budget moneys to the Kansas community entrepreneurship fund from the economic development initiatives fund subject to appropriations. The secretary also shall credit the fund with gifts, donations, investments or grants received from any source for the center, some of which shall qualify for the income tax credit allowed pursuant to this section and amendments thereto. All expenditures from such fund shall be made upon warrants of the director of accounts and reports pursuant to vouchers approved by the president of the center or by a person or persons designated by the president of the center.~~

~~(b) The state treasurer shall credit all revenue collected or received by the center to the fund. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas community entrepreneurship fund interest earnings based on:~~

~~(1) The average daily balance of moneys in the Kansas community entrepreneurship fund for the preceding month; and~~

~~(2) the net earnings rate of the pooled money investment portfolio for the preceding month. Expenditures from the fund shall be made only for the purposes of this act. Moneys in the fund shall not be subject to further legislative appropriation acts.~~

~~(c) Oversight and management of the fund shall be provided by the Kansas center for entrepreneurship under guidelines developed and implemented with the approval of the secretary. Any money received by the center from any source shall be maintained in interest-bearing accounts in Kansas banks or Kansas savings and loan associations. Any accounts so maintained shall be administered by the center for entrepreneurship under guidelines developed and implemented by the center and approved by the secretary of commerce.~~

~~(b) The Kansas center for entrepreneurship shall be subject to audit by the legislative division of post audit in accordance with the provisions of the legislative post audit act.~~

~~(d) (c) A credit against the tax imposed by the Article 32, Chapter 79 of the Kansas Statutes Annotated on the Kansas taxable income of an investor a contributor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash donation in contribution to the Kansas community entrepreneurship fund center for entrepreneurship. The credit shall be a total maximum amount equal to 50% of an investor's cash donation in 75% of a contributor's donation to the Kansas community entrepreneurship fund center for entrepreneurship, subject to the limitation set forth. This tax credit may be used in its entirety in the taxable year in which the cash donation contribution is made, except that, no tax credit shall be allowed in a year prior to 2006. The provisions of this section shall be applicable to all taxable years beginning after December 31, 2004. If the amount by which that portion of the credit allowed by this section exceeds the investor's contributor's liability in any one taxable year, beginning in the year 2006, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor contributor is a corporation having an election in effect under subchapter S of the federal internal revenue code or a partnership, the credit provided by this section shall be claimed by the shareholders of these corporations or the partners of a partnership in the same manner as these shareholders or partners account for their proportionate shares of the income or loss of these corporations or partnerships.~~

~~(e) (d) The secretary of revenue shall not allow tax credits of more than \$50,000 that are attributable to an individual investor of cash donations contributor in the Kansas community entrepreneurship fund center for entrepreneurship each year. In no event shall the total amount of tax credits allowed under this section exceed \$2,000,000 for any one fiscal year.~~

~~(f) The Kansas center for entrepreneurship shall be reimbursed for the reasonable costs of the administration of this act and for the processing, issuance and costs incurred in authorizing tax credits from the Kansas community entrepreneurship fund.~~

~~(g) (e) The Kansas center for entrepreneurship, along with the department, shall develop a system for application for registration of an authorization of tax credits authorized pursuant to this act and shall control distribution of all tax credits to investors contributors pursuant to this act. The Kansas center for entrepreneurship, along with the department, shall also develop rules for the administration of and disbursements from the Kansas community entrepreneurship fund its accounts.~~

~~(h) (f) The Kansas community entrepreneurship fund shall be distributed center for entrepreneurship shall distribute funds to regional or local community seed capital funds or economic development agencies based on the following criteria: (1) The organization can provide a 40% match; (2) the organization provides a plan that assures grant funds will be used as seed capital for qualified entrepreneurs; (3) the grant funds will be used in a distressed or rural community and; or (4) other criteria as deemed necessary by the Kansas center for entrepreneurship.~~

Sec. 5. K.S.A. 2005 Supp. 12-1773 is hereby amended to read as follows: 12-1773. (a) Any city which has adopted a redevelopment project plan in accordance with the provisions of this act may purchase or otherwise acquire real property in connection with such project plan. Upon a $\frac{2}{3}$ vote of the members of the governing body thereof a city may acquire

by condemnation any interest in real property, including a fee simple title thereto, which it deems necessary for or in connection with any project plan of an area located within the redevelopment district. Prior to the exercise of such eminent domain power, the city shall offer to the owner of any property which will be subject to condemnation with respect to any redevelopment project, other than one which includes an auto race track facility or a special bond project, compensation in an amount equal to the highest appraised valuation amount determined for property tax purposes by the county appraiser for any of the three most recent years next preceding the year of condemnation, except that, if in the year next preceding the year of condemnation any such property had been damaged or destroyed by fire, flood, tornado, lightning, explosion or other catastrophic event, the amount offered should be equal to the appraised valuation of the property which would have been determined taking into account such damage or destruction unless such property has been restored, renovated or otherwise improved. However no city shall exercise such eminent domain power to acquire real property in a conservation area. Any such city may exercise the power of eminent domain in the manner provided by K.S.A. 26-501 et seq., and amendments thereto. In addition to the compensation or damage amount finally awarded thereunder with respect to any property subject to proceedings thereunder as a result of the construction of an auto race track facility or a special bond project, such city shall provide for the payment of an amount equal to 25% of such compensation or damage amount. In addition to any compensation or damages allowed under the eminent domain procedure act, such city shall also provide for the payment of relocation assistance as provided in K.S.A. 12-1777, and amendments thereto.

(b) Any *real* property acquired by a city under the provisions of this ~~act~~ section may be sold, transferred or leased to a developer, in accordance with the redevelopment project plan and under such other conditions as may be agreed upon. *Any real property sold, transferred or leased to a redevelopment project developer for a specific redevelopment project shall be sold, transferred or leased to such developer on the condition that such property shall be used only for that specific approved redevelopment project. If the developer does not utilize the entire tract of the real property sold, transferred or leased, that portion of property not used shall not be sold, transferred or leased by the developer to another developer or party, but shall be deeded back to the city. If the developer paid the city for the land, a percentage of the original purchase price paid to the city which represents the percentage of the entire tract being deeded back to the city shall be reimbursed to the developer upon the deeding of the property back to the city.*

(c) *Any transfer by the redevelopment project developer of real property acquired pursuant to this section shall be valid only if approved by a $\frac{2}{3}$ majority vote of the members-elect of the governing body.*

New Sec. 6. (a) The secretary of commerce shall provide access to workforce training for every qualified older Kansan who desires such training. To accomplish this, the secretary, in coordination with the area agencies on aging and the older Kansans employment program, shall prepare a strategic plan and amend the state plan as appropriate, to outline the proposed delivery of training to older Kansans. Such strategic plan shall be submitted to the legislature by August 1, 2006, and thereafter whenever the state plan is amended, and shall contain the following information:

- (1) How resources may be used to ensure every qualified older Kansan has access to workforce development;
- (2) the minimum amount of money the department plans to spend on workforce development for older Kansans;
- (3) examples of programs the department plans to implement or enhance to promote workforce development for older Kansans;
- (4) specific measurable criteria that will be used to determine the effectiveness of the department's plan;
- (5) designated target areas for funding and the projected source of that funding;
- (6) a statement regarding the programs and training that will be provided and how such programs and training will be developed; and

(7) a plan outlining how services will be marketed so that older Kansans will be aware of their availability.

(b) For the purposes of this section:

(1) “Kansas resident” means a person who lives in Kansas.

(2) “Older Kansan” has the meaning provided in K.S.A. 75-5741, and amendments thereto.

(3) “Workforce development” means training of present, prospective or potential employees for jobs presently available or expected to be available in the future, based upon economic forecasts.

(4) “Qualified older Kansan” means an older Kansan who meets the guidelines for participating in the workforce development program.

Sec. 7. K.S.A. 2005 Supp. 12-1773, 74-50,154, 74-99c02, 74-99c05, 74-99c06 and 74-99c09 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.