

No. 1989-48

AN ACT

HB 1323

Amending the act of July 2, 1984 (P.L.520, No.105), entitled "An act establishing a business infrastructure development program for making grants and loans for infrastructure necessary to complement industrial or commercial investment by private companies; prescribing requirements of and conditions for grants and loans; and making an appropriation," further providing for conditions for grants and loans; and for the expiration of the act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7 of the act of July 2, 1984 (P.L.520, No.105), known as the Business Infrastructure Development Act, amended July 9, 1986 (P.L.1201, No.103), is amended to read:

Section 7. Special provisions.

(a) Limit on grants and loans to particular municipalities.—No more than 10% of funds appropriated pursuant to this act shall be loaned or granted to local sponsors in a particular municipality.

(b) Minimum allocation to small communities.—A minimum of 25% of the grants and loans issued pursuant to this act shall be allocated to small communities.

(c) Evidence of eligibility.—No loan or grant shall be made without substantiation of the provisions of section 4.

(d) Security.—Loans made by the department for infrastructure improvements funded under this act must be adequately secured.

(e) Penalty.—Private companies or private developers **[which receive loan funds but] who fail to create the number of jobs specified in [an approved] a funded application, who fail to own, operate or manage a facility for a minimum of five years or who fail to make the required amount of private investment** shall be liable for a penalty equal to **[an increase in the interest charged to 2% greater than the current prime interest rate for the remainder of the loan,] the full amount of the grant or loan awarded to the local sponsor** unless the penalty is waived by the secretary because the failure is due to circumstances outside the control of the private company or private developer. The penalty shall be payable in **[installments which] one lump sum or in installments, as the secretary deems appropriate**. Immediate notice of penalties and waivers of penalties shall be submitted by the secretary to the Chief Clerk of the House of Representatives and to the Secretary of the Senate, along with the secretary's decision on the imposition of penalties and the reasons for this decision. *The secretary has the authority to enforce this subsection. The secretary has standing to bring an action under this subsection in a court of competent jurisdiction.*

(f) Withholding of liquid fuel tax allocation.—Municipalities receiving interest free loans which fail to meet their repayment obligations shall have

all or part of their liquid fuel tax allocation withheld or other penalties, as the department may prescribe. The secretary shall immediately give the name of the municipality and the reasons for, and amount of, the penalty to both the Chief Clerk of the House of Representatives and the Secretary of the Senate.

(g) Relocation; job increase.—This act is expressly not intended to encourage the relocation of a company from one jurisdiction within the Commonwealth to another. Any request by a local sponsor for assistance to be provided a firm which currently operates a similar business in the Commonwealth must be accompanied by a demonstration that the total net increase in full-time equivalent jobs, using the current number of jobs in all similar businesses operated by the private company in the Commonwealth as a base, shall be at least 10%. This requirement shall not apply to private companies relocating from small business incubators.

Section 2. Section 12 of the act, amended July 9, 1987 (P.L.208, No.33), is amended to read:

Section 12. Termination.

No assistance shall be approved pursuant to this act after June 30, **[1989]** **1992**.

Section 3. This act shall take effect immediately.

APPROVED—The 10th day of July, A. D. 1989.

ROBERT P. CASEY