

CHAPTER 183**ECONOMIC DEVELOPMENT AND CONFLICTS OF INTEREST***S.F. 139*

AN ACT relating to the use of public funds to aid economic development.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. LEGISLATIVE FINDINGS.

The general assembly finds and declares as follows:

1. Any prolonged farm crisis that threatens the existence or stability of agricultural producers has a side effect upon agriculturally related industries and rural communities which do not have a diversified economy but rely heavily on the agricultural producers or agriculturally related industries.

2. Foreign competition, where the competition is from cheaper prices as a result of lower labor and material costs, results in plant closings, business failures, and the transformation of our industrial makeup to newer and different types of industries.

3. Technological advances in various aspects of many industries have occurred at greater frequencies than in the past resulting in the need of many businesses to retool, add new machinery, develop new processes, or retrain workers. Some businesses are able to profitably adjust to these advances while others find it very difficult if not impossible. In addition these technological advances offer opportunities for new industries to develop.

4. At times of high inflation rates, large federal deficits, or negative trade balances, the interest rates trend higher making it very difficult for agricultural producers and small businesses, which represent the principal pursuits of the inhabitants of this state, to find affordable capital for operating expenses and servicing of existing debt on operation, machinery, and real estate loans. This difficulty in finding affordable capital often results in a number of these enterprises contracting their operations or failing to maintain profitable operations. This, in turn, affects other businesses, both large and small, that rely on the enterprises as suppliers, middlemen, or consumers.

5. Small businesses account for the large majority of jobs in this and other states. Small businesses are continuously seeking to start up operations which may be in traditional areas or in new areas as a result of the change in technology or consumer tastes. These new operations have one thing in common risk. As the risk increases the availability of capital or availability of adequate affordable capital decreases. This may result in some businesses not being able to begin operations with a resulting loss in new jobs and additional income for the communities.

6. The effect on the economy of this state, locally and as a whole, of the situations described in subsections 1 through 5 and other adverse economic conditions is to increase unemployment, give impetus to migration of state residents, and lower the tax bases. These effects result in the inability of the state and its political subdivisions to provide needed services to and to improve the health and welfare of its inhabitants. In order to combat the conditions and situations affecting the ability of the state and its political subdivisions to provide for the needs, health, and welfare of its inhabitants, which are public purposes, economic development, involving but not limited to, the creation, maintenance, and expansion of business, industry, and farming and providing for increased employment, must occur.

7. Because economic development with its component parts is the answer to maintaining employment in the state, retaining population, and keeping and increasing the tax bases, which will enable the state and its political subdivisions to continue to provide for the health and welfare of its inhabitants, the state, its cities, and its counties need to provide assistance in order for economic development to become a reality.

Sec. 2. NEW SECTION. 15A.1 ECONOMIC DEVELOPMENT — PUBLIC PURPOSE.

1. Economic development is a public purpose for which the state, a city, or a county may provide grants, loans, guarantees, and other financial assistance to or for the benefit of private persons.

For purposes of this chapter, "economic development" means private or joint public and private investment involving the creation of new jobs and income or the retention of existing jobs and income that would otherwise be lost.

2. Before public funds are used for grants, loans, or other financial assistance to private persons or on behalf of private persons for economic development, the governing body of the state, city, county, or other public body dispensing those funds or the governing body's designee, shall determine that a public purpose will reasonably be accomplished by the dispensing or use of those funds. In determining whether the funds should be dispensed, the governing body or designee of the governing body shall consider any or all of the following factors:

a. Businesses that add diversity to or generate new opportunities for the Iowa economy should be favored over those that do not.

b. Development policies in the dispensing of the funds should attract, retain, or expand businesses that produce exports or import substitutes or which generate tourism-related activities.

c. Development policies in the dispensing or use of the funds should be targeted toward businesses that generate public gains and benefits, which gains and benefits are warranted in comparison to the amount of the funds dispensed.

d. Development policies in dispensing the funds should not be used to attract a business presently located within the state to relocate to another portion of the state unless the business is considering in good faith to relocate outside the state or unless the relocation is related to an expansion which will generate significant new job creation. Jobs created as a result of other jobs in similar Iowa businesses being displaced shall not be considered direct jobs for the purpose of dispensing funds.

Sec. 3. NEW SECTION. 15A.2 CONFLICTS OF INTEREST.

If a member of the governing body of a city or county or an employee of a state, city, or county board, agency, commission or other governmental entity of the state, city, or county has an interest, either direct or indirect, in a private person for which grants, loans, guarantees, or other financial assistance may be provided by such governing board or governmental entity, the interest shall be disclosed to that governing body or governmental entity in writing. The member or employee having the interest shall not participate in the decision-making process with regard to the providing of such financial assistance to the private person.

Employment by a public body, its agencies, or institutions or by any other person having such an interest shall not be deemed an interest by such employee or of any ownership or control by such employee of interests of the employee's employer.

The word "participation" shall be deemed not to include discussion or debate preliminary to a vote of a local governing body or agency upon proposed ordinances or resolutions relating to such a project or any abstention from such a vote.

The designation of a bank or trust company as depository, paying agent, or agent for investment of funds shall not be deemed a matter of interest or personal interest.

Stock ownership in a corporation having such an interest shall not be deemed an indicia of an interest or of ownership or control by the person owning such stocks when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by such person.

The word "action" shall not be deemed to include resolutions advisory to the local governing body or agency by any citizens group, board, body, or commission designated to serve a purely advisory approving or recommending function for economic development.

A violation of a provision of this section is misconduct in office under section 721.2. However, a decision of the governing board or governmental entity is not invalid because of the participation of the member or employee in the decision-making process or because of a vote cast by a member or employee in violation of this section unless the participation or vote was decisive in the awarding of the financial assistance.