CHAPTER 15A

USE OF PUBLIC FUNDS TO AID ECONOMIC DEVELOPMENT

Referred to in §15.106A

Legislative findings; 87 Acts, ch 183, §1; 94 Acts, ch 1008, §1

15A.1 Economic development — public purpose — environmental protection and waste disposal requirements.
15A.2 Conflicts of interest.
15A.3 Public economic development assistance — violations — criminal penalties.
15A.4 Competitive programs — good neighbor agreement — additional consideration.
15A.5 Reserved.
15A.6 State assistance for federal project. Repealed effective January 1, 1996, by its own terms; 92 Acts, ch 1223, §1.
15A.7 Supplemental new jobs credit from withholding.
15A.8 Loans payable from new jobs credit from withholding.
15A.9 Quality jobs enterprise zone — state assistance. Repealed by 2012 Acts, ch 1110, §16.

15A.1 Economic development — public purpose — environmental protection and waste disposal requirements.

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

b. 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, tax incentives, 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.

3. In addition to the requirements of subsection 2, a state agency shall not provide a grant, loan, or other financial assistance to a private person or on behalf of a private person unless the business for whose benefit the financial assistance is to be provided meets, to the satisfaction of the state agency, all of the following:

a. The business makes a report detailing the circumstances of its violations, if any, of a federal or state environmental protection statute, regulation, or rule within the previous five years. The state agency shall take into consideration before allowing financial assistance this report of the business.

b. If the business generates solid or hazardous waste, that the business conducts in-house audits and management plans to reduce the amount of the waste and to safely dispose of the waste. For purposes of this paragraph, a business may, in lieu of conducting in-house audits, authorize the department of natural resources or the Iowa waste reduction center established under section 268.4 to provide the audits.

4. A state agency shall disburse public moneys used for grants, loans, tax incentives, or other financial assistance for economic development without discrimination or without the use of terms or conditions which are more onerous than those regularly extended to persons of similar economic backgrounds and based on an applicant's age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

5. In addition to the other requirements of this section, a state agency may give additional consideration or additional points in the application of rating or evaluation criteria in providing a grant, loan, or other financial assistance for economic development-related purposes to a person or business for whose benefit the financial assistance is to be provided if the person or business is located in an area that meets one of the following criteria:

a. The area is a brownfield site as defined in section 15.291.

b. The area is a blighted area as defined in section 403.17.

87 Acts, ch 183, §2; 90 Acts, ch 1125, §1; 92 Acts, ch 1239, §21; 94 Acts, ch 1008, §14, 15; 99 Acts, ch 197, §22; 2001 Acts, ch 7, §1; 2001 Acts, ch 156, §1; 2002 Acts, ch 1162, §27; 2008 Acts, ch 1032, §124; 2014 Acts, ch 1130, §31

15A.2 Conflicts of interest.

1. *a.* 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, tax incentives, or other financial assistance may be provided by the 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.

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

c. The word *"participate"* or *"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.

d. 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.

e. 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 the stocks when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by that person.

f. The phrase *"decision-making process"* 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.

2. 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.

87 Acts, ch 183, §3; 88 Acts, ch 1134, §12; 94 Acts, ch 1008, §16; 2008 Acts, ch 1032, §125

15A.3 Public economic development assistance — violations — criminal penalties.

A person who engages in deception and knowingly makes or causes to be made, directly or indirectly, a false statement in writing, for the purpose of procuring economic development

assistance from a state agency or political subdivision, for the benefit of the person or for whom the person is acting, is guilty of a fraudulent practice in the first degree as defined in section 714.9. For purposes of this section, "*deception*" means deception as defined in section 702.9.

90 Acts, ch 1135, §1

15A.4 Competitive programs — good neighbor agreement — additional consideration.

1. A good neighbor agreement is an enforceable contract between a business and a community group or coalition of community groups which requires the business to adhere to negotiated environmental, economic, labor, or other social and community standards.

2. For any program providing financial assistance for economic development in which the assistance is provided on a competitive basis, a business which enters into a good neighbor agreement shall receive extra consideration of at least ten points or the equivalent. A business which fails to abide by the good neighbor agreement shall repay all financial assistance received under the program.

96 Acts, ch 1219, §96; 2018 Acts, ch 1041, §5

15A.5 Reserved.

15A.6 State assistance for federal project. Repealed effective January 1, 1996, by its own terms; 92 Acts, ch 1223, §1.

15A.7 Supplemental new jobs credit from withholding.

In order to promote the creation of additional high-quality new jobs within the state, an agreement under section 260E.3 may include a provision for a supplemental new jobs credit from withholding from jobs created under the agreement. A provision in an agreement for which a supplemental credit from withholding is included shall provide for the following:

1. That the project shall be administered in the same manner as a project under chapter 260E and that a supplemental new jobs credit from withholding in an amount equal to one and one-half percent of the gross wages paid by the employer pursuant to section 422.16 is authorized to fund the program services for the additional project.

2. That the supplemental new jobs credit from withholding shall be collected, accounted for, and may be pledged by the community college in the same manner as described in section 260E.5.

3. That the employer shall agree to pay wages for the jobs for which the credit is taken of at least the laborshed wage, as calculated by the authority pursuant to section 15.327, subsection 15. Eligibility for the supplemental credit shall be based on a one-time determination of starting wages by the community college.

4. To provide funds for the payment of the costs of the additional project, a community college may borrow money, issue and sell certificates, and secure the payment of the certificates in the same manner as described in section 260E.6, including, but not limited to, providing the assessment of an annual levy as described in section 260E.6, subsection 4. The program and credit authorized by this section are in addition to, and not in lieu of, the program and credit authorized in chapter 260E.

96 Acts, ch 1180, §8; 97 Acts, ch 23, §6; 2002 Acts, ch 1050, §3; 2009 Acts, ch 123, §25; 2011 Acts, ch 118, §87, 89; 2012 Acts, ch 1126, §15

Referred to in §15A.8, 422.16A

15A.8 Loans payable from new jobs credit from withholding.

1. As an additional means to provide moneys for the payment of the costs of a new jobs training project or multiple projects under chapter 260E and this chapter, a community college may make an advance or loan, including an interfund transfer or a loan from moneys on hand and legally available, to be paid from the same sources and secured in the same manner as certificates described in sections 15A.7 and 260E.6.

2. Revenues from a job training agreement received prior to the completion by a business of its repayment obligation for a project and not pledged to certificates, loans, or advances,

and not necessary for the payment of principal and interest maturing on such certificates, loans, or advances, may be applied by the community college to the reduction of any other outstanding certificates, loans, or advances.

98 Acts, ch 1225, §22
Referred to in §422.16A

15A.9 Quality jobs enterprise zone — state assistance. Repealed by 2012 Acts, ch 1110, §16.