2017-2018 General Assembly

SENATE BILL 99: Appropriations Act of 2018, Sec. 15.1: Major Manufacturing and Technology Headquarters Incentives and JDIG Changes

Committee:		**Date:**	August 31, 2018
Introduced by:		**Prepared by:**	Finance Team
Analysis of:	Sec. 15.1 of S.L. 2018-5		

OVERVIEW: Section 15.1 of the Appropriations Act of 2018, S.L. 2018-5, modifies the Job Development Investment Grant Program (JDIG) in a number of ways, including by increasing the annual commitment authority, imposing geographical limitations on annual JDIG commitments to promote more even distribution of awards throughout the State, strengthening provisions related to recruiting transformative projects, and making other administrative and general changes. Notable changes include:

- ***Increasing the annual JDIG cap from $20 million to $35 million in years in which a high-yield project (HYP) is not awarded and from $35 million to $45 million in years in which a HYP is awarded.***
- ***Restricting the $35 million annual JDIG cap by prohibiting more than $20 million from being used for projects located in counties with a total employment of 500,000 and reserving $5 million for projects located in counties with an annual ranking in the highest 50% of the remaining counties.***
- ***Reducing the required minimum metrics for transformative projects (TPs) and adjusting the basis and duration of the award paid to the business.***
- ***Increasing the Utility Account diversion for TPs and HYPs in years in which an enhanced percentage is paid.***

This section has various effective dates, but essentially applies to grants awarded, applications received, and agreements executed on or after June 12, 2018.

CURRENT LAW: JDIG is a performance-based, discretionary incentive program that provides cash grants directly to new and expanding companies to help offset the cost of locating or expanding a facility in this State. The amount of a grant is based on a percentage of the personal income tax withholdings associated with the new jobs. The Department of Commerce administers the program. For more information about the program, please see JDIG - Department of Commerce.

A JDIG award for a project other than a TP or HYP is limited to a term of 12 years with up to 80% of withholdings associated with eligible positions being paid to a company for a project in a development tier 1 area and up to 75% of withholdings associated with eligible positions being paid to a company for a project in another area. Of the amount paid to the business, there is no Utility Account diversion for a project in a development tier 1 area, there is a 10% Utility Account diversion for a project in a development tier 2 area, and there is a 25% Utility Account diversion for a project in a development tier 3 area. To enhance JDIG's ability to incent large projects, the General Assembly created a high-yield project (HYP) provision in 2015 for any company that creates more than 1,750 jobs and invests $500 million, and it

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created a transformative project (TP) provision in 2017 for any company that creates more than 5,000 jobs and invests $1 billion. Projects that qualify as either HYP or TP are eligible to obtain an enhanced term duration, a greater percentage of withholdings associated with eligible positions paid to the company, and an elimination of the Utility Account diversion.

BILL ANALYSIS: Section 15.1 of the Appropriations Act of 2018, S.L. 2018-5, modifies the JDIG program with respect to incentives for large projects, promotes more even JDIG resource distribution throughout the State, and makes other general and administrative changes. The changes modifying incentives for large projects are as follows:

- It reduces the minimum required metrics for TPs by lowering the investment requirement from $4 billion to $1 billion and by lowering the minimum job creation requirement from 5,000 to 3,500 jobs.
- It creates the classification of expansion positions for TPs as positions created by the business outside of the base period and allows withholdings for expansion positions to be part of the award calculation in years the business receives an enhanced award for meeting minimum required metrics. Expansion positions may not include positions in the company resulting from mergers or acquisitions during the agreement term.
- It eliminates the $6,500 per job award cap for TPs.
- It eliminates the 3-year time period for which minimum metrics must be met by a company in order to receive an enhanced JDIG award for a TP.
- For TPs, it increases the maximum award duration from 25 years to 30 years plus the base period,[1] and increases the maximum allowable base period from 5 to 10 years.
- For HYPs and TPs, it increases the Utility Account diversion in years in which an enhanced award is received from 0% to 10%.
- It increases the minimum time period eligible positions must be filled for a HYP or TP from no statutory minimum to at least 30 weeks of the applicable grant year.

The changes addressing distribution of JDIG awards throughout the State are as follows:

- It expands the annual JDIG cap from $20 million to $35 million in a year in which no HYP is awarded and from $35 million to $45 million in a year in which a HYP is awarded.
- It restricts the $35 million annual JDIG cap by prohibiting more that $20 million from being used for projects located in counties with a total employment of 500,000 (currently limited to Wake and Mecklenburg counties only) and reserving $5 million for projects located in counties in the top 50% of remaining counties in the annual economic distress rankings used for economic development programs.

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[1] The base period is the period in which a business must hire the requisite number of new employees for eligible positions. For non-TP, the grant calculation is based on eligible positions. For TP, the grant calculation is based on eligible positions created during the base period and expansion positions created outside the base period.

The remaining general and administrative changes are as follows:

- It disallows the calculation of the JDIG award to be based on any withholdings generated by a worker with an H-1B visa or with H-1B status.[2] Nothing in this provision disallows companies from otherwise employing a worker with an H-1B visa or status.

- It changes the JDIG application fee from a flat $10,000 fee to a tiered fee of $10,000 for a project located in a development tier 3 area, a HYP, or a TP, $5,000 for a project located in a development tier 2 area, and $1,000 for a project located in a development tier 1 area.

- It changes the agency to whom a grant recipient must report its annual payroll information each year from the Economic Investment Committee to the Department of Revenue.

EFFECTIVE DATE: This section became effective June 12, 2018, and applies as follows:

- The changes to the application fee amount became effective for applications received on or after June 12, 2018.
- The changes to what must be included in a grant agreement became effective for agreements executed on or after June 12, 2018.
- The changes to the JDIG program became effective for grants awarded on or after June 12, 2018.

[2] A worker with an H-1B visa is a foreign worker who is allowed to work in the United States for a limited period of time.