



SPONSOR: Rep. Kowalko & Rep. Baumbach & Sen. Sokola  
Rep. Morrison

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 10

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE AGREEMENT TO PHASE-OUT CORPORATE GIVEAWAYS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 29 of the Delaware Code by creating a new Chapter 87B and by making deletions as  
2 shown by strike through and insertions as shown by underline as follows:

3 Chapter 87B. Agreement to Phase-Out Corporate Giveaways Act.

4 § 8700B. Adoption of the Agreement to Phase-Out Corporate Giveaways.

5 This State hereby enters into the Agreement to Phase-Out Corporate Giveaways with all other jurisdictions legally  
6 joining the agreement.

7 § 8701B. Membership.

8 Any state of the United States and the District of Columbia may become a member of this agreement/compact by  
9 enacting this agreement in substantially the following form.

10 § 8702B. Definitions.

11 As used in this chapter:

12 (1) "Company-specific grant" means any disbursement of funds via property, cash, or deferred tax liability by  
13 the state government to a particular company.

14 (2) "Company-specific tax incentive" means any change in the general tax rate or valuation offered or  
15 presented to a specific company that is not available to other similarly-situated companies.

16 (3) "Corporate giveaway" means any company-specific or industry-specific disbursement of funds via  
17 property, cash, or deferred or reduced tax liability by a state or local government to a particular company or industry.

18 (4) "Located in any other member state" means any corporate headquarters, office space, manufacturing  
19 facility, or other real estate development that is physically located in another member state, whether or not the  
20 company has other property in the member state.

21 (5) "Member state" means any state or the District of Columbia that has enacted a statute agreeing to this  
22 compact.

23           § 8703B. Findings.

24           The member states find all of the following:

25                   (1) Corporate giveaways are among the least effective uses of taxpayer dollars to create and maintain jobs.

26                   (2) Local and state leaders are in a prisoners' dilemma where it is best for all to create a level playing field for  
27 all employers without any corporate incentives, but each level of government has an incentive to subsidize a company,  
28 generating a race to the bottom.

29                   (3) Governments should attract and retain companies based on general conditions, including, but not limited  
30 to, modern infrastructure, an educated workforce, a clean environment, and a favorable tax and regulatory climate, not  
31 based on a specific grant for a particular company.

32                   (4) Corporate giveaways fuel business inequality as only the largest businesses receive the vast majority of  
33 these funds.

34                   (5) A reasonable first step in phasing out corporate giveaways is an anti-poaching agreement among state  
35 governments prohibiting state company-specific tax incentives and state company-specific grants as an inducement for  
36 entities to relocate existing facilities.

37                   (6) Creating a national board of gubernatorial appointees charged with finding consensus around  
38 improvements to this agreement over time in a phased approach will assist state and local governments in escaping  
39 from the prisoners' dilemma and implementing a level playing field for all employers.

40           § 8704B. Anti-poaching prohibition.

41           Each member state is prohibited from offering or providing any company-specific tax incentive or company-  
42 specific grant to any entity for a corporate headquarters, manufacturing facility, office space, or other real estate  
43 development located in any other member state as an inducement for the corporate headquarters, manufacturing facility,  
44 office space, or other real estate development to relocate to the offering member state.

45           § 8705B. Exclusions.

46           Workforce development grants that train employees are not subject to this agreement. Company-specific tax  
47 incentives or company-specific grants from local governments are not subject to this agreement, and state's company-  
48 specific tax incentives or state company-specific grants to entities for corporate headquarters, office space, manufacturing  
49 facilities, or real estate developments located within that specific state are not subject to this agreement.

50           § 8706B. Withdrawal.

51           Any member state may withdraw from this agreement with 6 months' notice and shall do so in writing to the  
52 governor of every member state.

53           § 8707B. Enforcement.

54           The attorney general of each member state shall enforce this compact. A taxpaying resident of any member state  
55 has standing in the courts of any member state to require the attorney general of that member state to enforce this compact.

56           § 8708B. National board to draft suggested improvements over time to the agreement.

57           A national board of the agreement to phase out corporate giveaways act is established by this agreement. The  
58 governor of each member state shall appoint one member to the board. The board shall accept appointees from non-member  
59 states that wish to appoint a member of the board. The purpose of the board is to publish suggested revisions to this  
60 agreement in December of each year to continue to phase out those forms of corporate giveaways that the board finds  
61 reasonable to include as suggested revisions to the agreement for member states to consider implementing. The board shall  
62 convene at least annually, elect officers from its membership, establish rules and procedures for its governance, and publish  
63 a report in December of each year that includes suggested revisions and improvements to this agreement. The board shall  
64 collect testimony from all interested parties, including organizations and associations representing state legislators,  
65 taxpayers and subject matter experts on how the agreement can be improved and strengthened.

66           § 8709B. Construction and severability.

67           This compact shall be liberally construed so as to effectuate its purposes. If any phrase, clause, sentence or  
68 provision of this compact, or the applicability of any phrase, clause, sentence, or provision of this compact to any  
69 government, agency, person or circumstance is declared in a final judgment by a court of competent jurisdiction to be  
70 contrary to the constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact  
71 and the applicability of the remainder of this compact to any government, agency, person, or circumstance shall not be  
72 affected. If this compact is held to be contrary to the constitution of any member state, the compact shall remain in full  
73 force and effect as to the remaining member states and in full force and effect as to the affected member state as to all  
74 severable matters.

75           Section 2. This Act takes effect upon the adoption of the Agreement to Phase-Out Corporate Giveaways by 2 or  
76 more states. The Secretary of State shall provide notice published in the Register of Regulations that the Agreement to  
77 Phase-Out Corporate Giveaways has been adopted by 2 or more states.

78           Section 3. This Act is known as the “Agreement to Phase-Out Corporate Giveaways”.

#### SYNOPSIS

This Act adopts the Agreement to Phase-Out Corporate Giveaways, under which member states are prohibited from offering or providing company-specific tax incentives or grants to an entity as inducement for the entity to physically relocate to the state from a location in a member state. Corporate incentives are among the least effective uses of taxpayer dollars to create and maintain jobs and governments should attract and retain companies based on general conditions, not based on a specific grant for a particular company. The Agreement to Phase-Out Corporate Giveaways creates a level playing field for all employers.

This Act takes effect upon the adoption of the Agreement to Phase-Out Corporate Giveaways by 2 or more states.  
This Act is known as the “Agreement to Phase-Out Corporate Giveaways”.