
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 175 Session of
2007

INTRODUCED BY SOLOBAY, BARRAR, BELFANTI, CALTAGIRONE, CAPPELLI,
CARROLL, COHEN, DALEY, DePASQUALE, FABRIZIO, GALLOWAY,
GOODMAN, GRUCELA, HENNESSEY, HORNAMAN, KOTIK, KULA, MAHONEY,
MANN, MELIO, MUNDY, M. O'BRIEN, PETRONE, REED, SABATINA,
SAINATO, STURLA, SURRA, TANGRETTI, WALKO AND YOUNGBLOOD,
FEBRUARY 1, 2007

REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 1, 2007

AN ACT

1 Requiring the Department of Community and Economic Development
2 to submit a unified economic development budget; providing
3 for unified reporting of property tax reductions and
4 abatements, for application for economic development
5 subsidies, for reports, for subsidy limit and job quality
6 standards and for recapture; establishing a private
7 enforcement action; and providing for public record
8 disclosure.

9 The General Assembly finds and declares as follows:

10 (1) Although the Commonwealth and its local government
11 units have granted numerous economic development subsidies in
12 the last 25 years, the real wage levels and health care
13 coverage of working families have declined.

14 (2) When workers receive low wages and poor benefits,
15 there are often hidden taxpayer costs imposed on citizens, in
16 the form of Medicaid, food stamps, earned income tax credits
17 and other forms of public assistance to the working poor and
18 their families.

19 (3) Citizen participation in economic development has

1 been impeded by a lack of readily accessible information
2 regarding expenditures and outcomes.

3 (4) When employers promise job creation and fail to
4 deliver, the consequences of their broken promises are borne
5 by local workers. When employers receive tax benefits in
6 anticipation of creating jobs, they should be answerable for
7 their failures.

8 (5) Therefore, in order to improve the effectiveness of
9 expenditures for economic development and to ensure that they
10 achieve the goal of raising living standards for working
11 families, it is necessary to collect, analyze and make
12 publicly available information regarding those expenditures
13 and to enact certain safeguards for their use.

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

16 Section 1. Short title.

17 This act shall be known and may be cited as the Economic
18 Development and Fiscal Accountability Act.

19 Section 2. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 "Affiliate" or "affiliated company." A person that directly
24 or indirectly, through one or more intermediaries, controls, is
25 controlled by or is under common control with a specified
26 person.

27 "Association." A corporation, partnership, limited liability
28 company, business trust or two or more persons associated in a
29 common enterprise or undertaking. The term does not include a
30 testamentary trust or an inter vivos trust as defined in 20

1 Pa.C.S. § 711(3) (relating to mandatory exercise of jurisdiction
2 through orphans' court division in general).

3 "Banking institution." A federally chartered or State-
4 chartered banking institution.

5 "Corporate parent." A person, association, corporation,
6 joint venture, partnership or other entity that owns or controls
7 at least 50% of a recipient corporation.

8 "Corporation." A corporation for profit as defined in 15
9 Pa.C.S. § 102 (relating to definitions).

10 "Credit union." A credit union as defined in 17 Pa.C.S. §
11 102 (relating to application of title).

12 "Date of subsidy." Any of the following:

13 (1) Except as otherwise provided in paragraph (2) or
14 (3), the date that a granting body provides the initial
15 monetary value of a development subsidy to a recipient
16 corporation.

17 (2) Where a development subsidy is for the installation
18 of new equipment, the date a recipient corporation puts the
19 equipment into service.

20 (3) Where a development subsidy is for improvements to
21 property, the date the improvements are finished or, if the
22 improvements consist of new construction, the date the
23 recipient corporation or other business entity occupies the
24 property.

25 "Department." The Department of Community and Economic
26 Development of the Commonwealth.

27 "Development subsidy." An expenditure of public funds with a
28 value of at least \$25,000 for the purpose of stimulating
29 economic development within this Commonwealth, including, but
30 not limited to a bond, grant, loan, loan guarantee, enterprise

1 zone, empowerment zone, Keystone Opportunity Zone, tax increment
2 financing, fee waiver, land price subsidy, matching fund, tax
3 abatement, tax exemption and tax credits.

4 "Full-time job." A job in which an individual is employed by
5 a recipient corporation for at least 35 hours per week.

6 "Granting body." An agency, board, commission, office,
7 public benefit corporation or authority of the Commonwealth or a
8 local government unit that provides a developmental subsidy.

9 "Limited liability company." A domestic or foreign limited
10 liability company as defined in 15 Pa.C.S. § 102 (relating to
11 definitions).

12 "Local government unit." An agency, board, commission,
13 office, public benefit corporation or public authority of a
14 political subdivision of the Commonwealth.

15 "Other business entity." A banking institution, credit
16 union, insurance corporation, savings association, person, sole
17 proprietorship, association, joint venture, partnership, limited
18 liability company, public utility corporation or similar
19 business entity.

20 "Part-time job." A job in which an individual is employed by
21 a recipient corporation for fewer than 35 hours per week.

22 "Project site." The site of a project for which a
23 development subsidy is provided.

24 "Property-taxing entity." An entity that levies taxes upon
25 real or personal property.

26 "Public utility corporation." A domestic or foreign
27 corporation for profit that is subject to regulation as a public
28 utility by the Pennsylvania Public Utility Commission or an
29 office or agency of the United States.

30 "Recipient corporation." A person, association, corporation,

1 joint venture, partnership or other business entity that
2 receives a development subsidy.

3 "Savings association." A domestic corporation for profit
4 that is an association as defined in the act of December 14,
5 1967 (P.L.746, No.345), known as the Savings Association Code of
6 1967.

7 "Small business." A corporation or other business entity
8 that employed fewer than 20 full-time employees or had total
9 gross receipts of less than \$1,000,000 during the calendar year.
10 For the purposes of determining full-time employees and total
11 gross receipts, if a business is a corporation, the full-time
12 employees and gross receipts of the corporate parent and all
13 subsidiaries thereof shall be included.

14 "State agency." An agency, board, commission, office, public
15 corporation or public authority of the Commonwealth.

16 "Subsidy value." The face value of any and all development
17 subsidies provided to a recipient corporation.

18 "Temporary job." A job in which an individual is hired for a
19 season or for a limited period of time.

20 Section 3. Unified economic development budget report.

21 The department shall submit an annual unified economic
22 development budget report to the General Assembly no later than
23 three months after the end of the Commonwealth's fiscal year.
24 The report shall present all types of expenditures for economic
25 development during the prior fiscal year, including, but not
26 limited to:

27 (1) The amount of uncollected State tax revenues
28 resulting from every tax credit, abatement, exemption and
29 reduction provided by the State government or a local
30 governmental unit, including, but not limited to, gross

1 receipts, corporate net income, personal income, sales, use,
2 excise, property, utility, public utility realty, insurance
3 premium, bank shares, mutual thrift institution, and capital
4 stock and franchise taxes.

5 (2) The name of each taxpayer which claimed any tax
6 credit, abatement, exemption or reduction under paragraph (1)
7 of any value equal to or greater than \$5,000, together with
8 the dollar amount received by each such taxpayer.

9 (3) Any tax credit, abatement, exemption or reduction
10 received by a business entity of less than \$5,000 each shall
11 not be itemized. The Department of Revenue shall report an
12 aggregate dollar amount of such expenditures and the number
13 of business entities so aggregated for each tax expenditure.

14 (4) All State-related expenditures for economic
15 development, including line-item budgets for every State-
16 funded entity concerned with economic development, including,
17 but not limited to, the Department of Community and Economic
18 Development, the Department of Labor and Industry, vocational
19 education programs, State university research programs,
20 manufacturing extension service, work force investment
21 boards, industrial development authorities, regional
22 development authorities and finance authorities.

23 Section 4. Unified reporting of property tax reductions and
24 abatements.

25 (a) Property report.--Each local government unit shall
26 annually submit a report to the department regarding any real
27 property in the local government unit's jurisdiction that has
28 received a property tax abatement, reduction or exemption during
29 the fiscal year. The report shall contain information,
30 including, but not limited to:

- 1 (1) the name of the property owner;
- 2 (2) the address of the property;
- 3 (3) the start and end dates of the property tax
- 4 abatement, reduction or exemption;
- 5 (4) the schedule of the tax reduction;
- 6 (5) each tax abatement, reduction or exemption for the
- 7 property; and
- 8 (6) the amount of property tax revenue not paid to the
- 9 local government unit as a result of the abatement, reduction
- 10 or exemption.

11 (b) Unpaid tax revenue report.--Each local government unit
12 shall submit a report to the department setting forth the total
13 property tax revenue not paid to the local government unit
14 during the fiscal year as a result of all property tax
15 abatements, reductions and exemptions in the local government
16 unit's jurisdiction.

17 (c) Time period for filing.--The reports required under
18 subsections (a) and (b) shall be prepared on two forms prepared
19 by the Department of Revenue and shall be submitted to the
20 department by the local government unit no later than three
21 months after the end of the fiscal year.

22 (d) Publication.--The department shall annually compile and
23 publish all of the data contained in the reports required under
24 subsections (a) and (b) in both written and electronic form,
25 including the department's Internet website.

26 (e) Penalty for failure to report.--If the local government
27 unit fails to submit its reports to the department within the
28 prescribed time, the department shall notify the State
29 Treasurer, whereupon the State Treasurer shall withhold further
30 payments of any development subsidy to the delinquent local

1 government unit until the local government unit files its
2 reports with the department.

3 Section 5. Application for economic development subsidies.

4 (a) Contents of application.--Each granting body, together
5 with the applicant for a development subsidy, shall complete an
6 application for the subsidy on a form prepared by the
7 department. The information required on the application shall
8 include the following:

9 (1) An application tracking number for the granting
10 agency and the project.

11 (2) The name, street and mailing address and telephone
12 number of the chief officer of the granting body.

13 (3) The name, street and mailing address and telephone
14 number of the chief officer of the applicant's corporate
15 parent, if any.

16 (4) The name, street and mailing address and telephone
17 number of the owner or chief officer of the applicant.

18 (5) The street address of the project site.

19 (6) The three-digit North American Industry
20 Classification System number of the project site.

21 (7) The total number of individuals employed by the
22 applicant at the project site on the date of the application,
23 itemized by full-time, part-time and temporary positions.

24 (8) The total number of individuals employed in this
25 Commonwealth by the applicant's corporate parent, if any, and
26 all subsidiaries thereof as of December 31 of the prior
27 fiscal year, itemized by full-time, part-time and temporary
28 positions.

29 (9) The development subsidy being applied for with the
30 granting body and the value of such subsidy.

1 (10) The number of new jobs to be created by the
2 applicant at the project site, itemized by full-time, part-
3 time and temporary positions.

4 (11) The average hourly wage to be paid to all current
5 and new employees at the project site, itemized by the full-
6 time, part-time and temporary positions, and further itemized
7 by wage groups as follows: \$6 or less per hour, \$6.01 to \$7
8 per hour, \$7.01 to \$8 per hour, \$8.01 to \$9 per hour, \$9.01
9 to \$10 per hour, \$10.01 to \$11 per hour, \$11.01 to \$12 per
10 hour, \$12.01 to \$13 per hour, \$13.01 to \$14 per hour and
11 \$14.01 or more per hour.

12 (12) For project sites located in a Metropolitan
13 Statistical Area, as defined by the Federal Office of
14 Management and Budget, the average hourly wage paid to
15 nonmanagerial employees in this Commonwealth for the
16 industries involved at the project, as established by the
17 United States Bureau of Labor Statistics.

18 (13) For project sites located outside of Metropolitan
19 Statistical Areas, the average weekly wage paid to
20 nonmanagerial employees in the county for industries involved
21 at the project, as established by the Department of Commerce.

22 (14) The type or amount of health care coverage to be
23 provided by the applicant within 90 days of commencement of
24 employment at the project site, including any costs to be
25 borne by the employees.

26 (15) A list of all development subsidies that the
27 applicant is requesting and the name of any other granting
28 body from which subsidies are sought.

29 (16) A statement as to whether the development subsidy
30 may reduce employment at any other site controlled by the

1 applicant or its corporate parent, if any, within or without
2 this Commonwealth, resulting from automation, merger,
3 acquisition, corporate restructuring or other business
4 activity.

5 (17) A statement as to whether the project involves the
6 relocation of work from another address and if so, the number
7 of jobs to be relocated and the address from which they are
8 to be relocated.

9 (18) A certification by the owner or chief officer of
10 the applicant as to the accuracy of the application.

11 (b) Copy of approved application to the department.--If the
12 granting body approves the application, it shall send a copy to
13 the department within 15 days of such approval. If the
14 application is not approved, the granting body shall retain the
15 application in its records.

16 Section 6. Reports.

17 (a) Annual reports.--Each granting body shall file a
18 progress report with the department for each project for which a
19 development subsidy has been granted no later than February 1
20 each year and shall file annual progress reports for the
21 duration of the subsidy or not less than five years, whichever
22 period is greater. The report shall include the following
23 information:

24 (1) The application tracking number.

25 (2) The name, street and mailing address, telephone
26 number and chief officer of the granting body.

27 (3) The name, street and mailing address, telephone
28 number and the owner or chief officer of the recipient
29 corporation or other business entity.

30 (4) A summary of the number of jobs required, created

1 and lost, itemized by full-time, part-time and temporary
2 positions and by wage groups.

3 (5) The type and amount of health care coverage provided
4 to the employees at the project site, including any costs
5 borne by the employees.

6 (6) A comparison of the total employment in this
7 Commonwealth by the recipient's corporate parent, if any, on
8 the date of the application and the date of the report,
9 itemized by full-time, part-time and temporary positions.

10 (7) A statement as to whether the use of the development
11 subsidy during the previous fiscal year has reduced
12 employment at any other site controlled by the recipient
13 corporation or other business entity or its corporate parent,
14 if any, within or without this Commonwealth as a result of
15 automation, merger, acquisition, relocation, corporate
16 restructuring or other business activity.

17 (8) A signed certification by the owner or chief officer
18 of the recipient corporation or other business entity as to
19 the accuracy of the progress report.

20 On all subsequent annual progress reports, the granting body
21 shall indicate whether the recipient corporation is still in
22 compliance with its job creation, wage and benefit goals and
23 whether the corporate parent, if any, is still in compliance
24 with its Commonwealth employment requirement.

25 (b) Biennial report.--

26 (1) No later than 15 days after the second anniversary
27 of the date of subsidy, the granting body shall file with the
28 department a two-year progress report including the same
29 information as required under subsection (a). The recipient
30 corporation or other business entity shall certify as to the

1 accuracy of the report.

2 (2) The granting body shall state in the two-year report
3 whether the recipient corporation or other business entity
4 has achieved its job creation, wage and benefit goals and
5 whether the corporate parent, if any, has maintained its
6 level of employment in this Commonwealth at no less than 90%
7 of its level of employment in this Commonwealth on the date
8 of the subsidy.

9 (c) Compilation and publication of data.--The department
10 shall compile and publish all data from the progress reports in
11 both written and electronic form, including the department's
12 Internet website.

13 (d) Access to project site and records.--The granting body
14 and the department shall have access at all reasonable times to
15 the project site and the records of the recipient corporation or
16 other business entity in order to monitor the project and to
17 prepare progress reports.

18 (e) Effect of noncompliance.--A recipient corporation or
19 other business entity that fails to provide the granting body
20 with the information or access required under this section shall
21 be subject to a fine of not less than \$500 per day to commence
22 within ten working days after the February 1 deadline and of not
23 less than \$1,000 per day to commence 20 days after such
24 deadline.

25 Section 7. Subsidy limit and job quality standards.

26 A granting body may not award:

27 (1) A development subsidy if the cost per job is greater
28 than \$35,000. The cost shall be determined by dividing the
29 amount of the subsidy by the number of full-time jobs
30 required under the application approved by the granting body.

1 (2) A subsidy to an applicant unless the wages paid to
2 employees at the project site are equal to or exceed 85% of
3 the average wage as established under section 5(12) and (13),
4 provided, however, that for small businesses, the average
5 wage must equal or exceed 75% of the wages established
6 thereunder. The computation of wages under this paragraph
7 shall only apply to a recipient corporation or other business
8 entity that provides the health care coverage as approved in
9 its application by the granting body. A recipient corporation
10 or other business entity not providing such health care
11 coverage shall pay wages to employees at the project site
12 equal to or in excess of 100% of average wage as established
13 under this act.

14 Section 8. Recapture.

15 (a) General rule.--A recipient corporation or other business
16 entity shall fulfill its job creation, wage, health care and
17 other benefit requirements for the project site within two years
18 of the date of subsidy. The recipient corporation or other
19 business entity shall maintain its wage and benefit goals as
20 long as the subsidy is in effect or five years, whichever is
21 longer.

22 (b) Corporate parent duties.--The parent of a recipient
23 corporation or other business entity may lose no more than 10%
24 of its employment in this Commonwealth as long as the
25 development subsidy is in effect or not less than five years,
26 whichever is longer.

27 (c) Procedure.--If the requirements under subsection (a) or
28 (b) are not fulfilled, the granting body shall recapture the
29 development subsidy from the recipient corporation or other
30 business entity, or corporate parent, if any, as follows:

1 (1) Upon a failure by the recipient corporation or other
2 business entity to create the required number of jobs or to
3 pay the required wages or benefits, the amount recaptured
4 shall be based on the pro rata amount by which the unfilled
5 jobs, wages or benefits bear to the total amount of the
6 development subsidy.

7 (2) Upon the loss by the recipient corporation or other
8 business entity or corporate parent of more than 10% of its
9 employment in this Commonwealth.

10 (d) Notice of intent to recapture.--The granting body shall
11 provide notice to the recipient corporation or other business
12 entity, and corporate parent, if any, as well as any affiliate
13 or subsidiary, of its intent to recapture the development
14 subsidy and state the reasons and amount to be recaptured. The
15 recipient corporation or other business entity shall remit to
16 the governing body such amount within 60 calendar days of the
17 date of the notice.

18 (e) Declaration of subsidy as null and void.--If a recipient
19 corporation or other business entity defaults on a development
20 subsidy in three consecutive calendar years, or in a shorter
21 period if provided in the development subsidy agreement, the
22 granting body shall declare the subsidy null and void, and shall
23 so notify the department and the recipient corporation or other
24 business entity. The recipient corporation or corporate parent,
25 if any, as well as any affiliate or subsidiary, shall pay back
26 to the granting body all remaining value of the development
27 subsidy it has not previously repaid within 180 calendar days of
28 the date of the notice of such default.

29 (f) Joint and severable liability.--For the purposes of this
30 section, the recipient corporation or other business entity,

1 corporate parent, if any, or any affiliate or affiliated company
2 shall be jointly and severally liable for the recapture required
3 under subsection (c).

4 Section 9. Private enforcement action.

5 If a granting body fails to enforce any provision of this
6 act, any individual who paid personal income taxes to the
7 Commonwealth in the calendar year prior to the year in dispute,
8 or any organization representing such taxpayers, shall be
9 entitled to bring a civil action in an appropriate court to
10 compel enforcement under this act. The court shall award
11 reasonable attorney fees and costs to such prevailing taxpayer
12 or organization.

13 Section 10. Public record disclosure.

14 All records required to be prepared or maintained under this
15 act, including, but not limited to, applications, progress
16 reports, recapture notices and any other records or proceedings
17 relating thereto, shall be subject to disclosure under the act
18 of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-
19 Know Law.

20 Section 11. Severability.

21 The provisions of this act are severable. If any provision of
22 this act or its application to any person or circumstance is
23 held invalid, the invalidity shall not affect other provisions
24 or applications of this act which can be given effect without
25 the invalid provision or application.

26 Section 12. Effective date.

27 This act shall take effect in 90 days.