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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 175      Session of  
2007

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INTRODUCED BY SOLOBAY, BARRAR, BELFANTI, CALTAGIRONE, CAPPELLI,  
CARROLL, COHEN, DALEY, DePASQUALE, FABRIZIO, GALLOWAY,  
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SAINATO, STURLA, SURRA, TANGRETTI, WALKO AND YOUNGBLOOD,  
FEBRUARY 1, 2007

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REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 1, 2007

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

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

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

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

(e) Penalty for failure to report.--If the local government unit fails to submit its reports to the department within the prescribed time, the department shall notify the State Treasurer, whereupon the State Treasurer shall withhold further 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.

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

#### Section 8. Recapture.

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

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

(c) Procedure.--If the requirements under subsection (a) or (b) are not fulfilled, the granting body shall recapture the development subsidy from the recipient corporation or other 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.