
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 784 Session of
2007

INTRODUCED BY BROWNE, BOSCOLA, ERICKSON, FOLMER, ORIE, WOZNIAK,
TOMLINSON, D. WHITE, PIPPY, RAFFERTY, VANCE, FUMO,
WONDERLING, WAUGH AND COSTA, MAY 2, 2007

REFERRED TO FINANCE, MAY 2, 2007

AN ACT

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

8 The General Assembly finds and declares as follows:

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

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

18 (3) Citizen participation in economic development has
19 been impeded by a lack of readily accessible information
20 regarding expenditures and outcomes.

1 (4) That subsidies may result in the relocation of
2 companies and the displacement of their former employees.

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

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Short title.

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

14 Section 2. Definitions.

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

18 "Applicant." Any person, association, corporation, joint
19 venture, partnership, public authority, public benefit
20 corporation, local government unit or other entity that applies
21 for a development subsidy.

22 "Brownfield." A distressed, blighted, underutilized or
23 abandoned property that has been previously developed for
24 industrial, commercial or related uses and that meets the
25 requirements set forth in the act of October 18, 1988 (P.L.756,
26 No.108), known as the Hazardous Sites Cleanup Act.

27 "Corporate parent." A person, association, corporation,
28 joint venture, partnership or other entity that owns or controls
29 50% or more of a recipient corporation.

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

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

5 (2) Where a development subsidy is for the installation
6 of new equipment, the date a recipient corporation puts the
7 equipment into service.

8 (3) Where a development subsidy is for improvements to
9 property, the date the improvements are finished or the date
10 the business occupies the property, whichever is earlier.

11 "Department." The Department of Revenue of the Commonwealth.

12 "Development subsidy." An expenditure of public funds with a
13 value of at least \$25,000 for the purpose of stimulating
14 economic development within this Commonwealth, including, but
15 not limited to a bond, grant, loan, loan guarantee, enterprise
16 zone, empowerment zone, tax increment financing, fee waiver,
17 infrastructure improvements, land price subsidy, matching fund,
18 tax abatement, tax exemption and tax credits.

19 "Development tax subsidy." A tax credit, abatement,
20 exemption or reduction of any kind, including, but not limited
21 to, those provided as a part of a Keystone Opportunity Zone or
22 tax increment financing, provided for the purpose of stimulating
23 economic development within this Commonwealth.

24 "Employee." An employee other than a manager or supervisor.

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

27 "Granting body." An agency, board, office, public benefit
28 corporation or authority of the Commonwealth or a local
29 government unit that provides a developmental subsidy.

30 "Greenfield." Land that has not been previously developed.

1 "Infrastructure improvements." The term shall have the same
2 meaning as given to it in section 2 of the act of July 11, 1996
3 (P.L.677, No.116), known as the Infrastructure Development Act.

4 "Local government unit." An agency, board, commission,
5 office, public benefit corporation or public authority of a
6 political subdivision of the Commonwealth.

7 "Multiproject site." An industrial park or an area that
8 includes more than one industrial, commercial or retail business
9 and that benefits from a development subsidy.

10 "New employee." A full-time employee who represents a net
11 increase in the number of individuals employed by the recipient
12 corporation in this Commonwealth. The term does not include an
13 employee who performs a job that was previously performed by
14 another employee of the recipient corporation if that job
15 existed for at least six months before hiring the employee.

16 "Part-time job." A job in which an individual is employed by
17 a business for fewer than 35 hours per week.

18 "Project site." The site of a project for which a
19 development subsidy is provided or, in the case of
20 infrastructure improvements that directly benefit a particular
21 business, the location of the benefited business.

22 "Property-taxing entity." An entity that levies taxes upon
23 real or personal property.

24 "Recipient." A person, association, corporation, joint
25 venture, partnership, public authority, public benefit
26 corporation, local government unit or other entity that receives
27 a development subsidy.

28 "Recipient corporation." Any recipient that is a
29 corporation.

30 "Small business." A corporation or other business entity

1 that employed fewer than 20 full-time employees or had total
2 gross receipts of less than \$1,000,000 during the calendar year.
3 For the purposes of determining full-time employees and total
4 gross receipts, if a business is a corporation, the full-time
5 employees and gross receipts of the corporate parent and all
6 subsidiaries thereof shall be included.

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

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

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

13 Section 3. Unified economic development budget report.

14 The department shall submit an annual unified economic
15 development budget report to the General Assembly no later than
16 three months after the end of the Commonwealth's fiscal year.
17 The report shall present all types of expenditures for economic
18 development during the prior fiscal year, including, but not
19 limited to:

20 (1) The amount of uncollected State and local government
21 tax revenues resulting from every tax credit, abatement and
22 exemption provided by the State government or a local
23 governmental unit, including, but not limited to, gross
24 receipts, income, sales, use, raw materials, excise,
25 property, utility, privilege and inventory taxes.

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

30 (3) Any tax credit, abatement, exemption or reduction

1 received by a business entity of less than \$5,000 each shall
2 not be itemized. The Department of Revenue shall report an
3 aggregate dollar amount of such expenditures and the number
4 of business entities so aggregated for each tax expenditure.

5 (4) All State-related expenditures for economic
6 development, including line-item budgets for every State-
7 funded entity concerned with economic development, including,
8 but not limited to, the Department of Community and Economic
9 Development, the Department of Labor and Industry, the
10 Department of Education, vocational education programs, State
11 university research programs, industrial resource centers,
12 Pennsylvania Infrastructure Investment Authority, work force
13 investment boards, economic development commissions,
14 industrial development authorities, regional development
15 authorities, finance authorities and economic stimulus
16 programs.

17 Section 4. Unified reporting of property tax reductions and
18 abatements.

19 (a) Property report.--Each property-taxing entity shall
20 annually submit a report to the department regarding any real
21 property in the property-taxing entity's jurisdiction that has
22 received a property tax abatement, reduction or exemption during
23 the fiscal year. The report shall contain information which
24 includes all of the following:

25 (1) the name of the property owner;

26 (2) the address of the property;

27 (3) the start and end dates of the property tax
28 abatement, reduction or exemption;

29 (4) the schedule of the tax reduction;

30 (5) each tax abatement, reduction or exemption for the

1 property; and

2 (6) the amount of property tax revenue not paid to the
3 local government unit as a result of the abatement, reduction
4 or exemption.

5 (b) Unpaid tax revenue report.--Each property-taxing entity
6 shall submit a report to the department setting forth the total
7 property tax revenue not paid to the property-taxing entity
8 during the fiscal year as a result of all property tax
9 abatements, reductions and exemptions in the property-taxing
10 entity's jurisdiction.

11 (c) Time period for filing.--The reports required under
12 subsections (a) and (b) shall be prepared on two forms prepared
13 by the department and shall be submitted to the department by
14 the property-taxing entity no later than three months after the
15 end of the fiscal year.

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

20 (e) Penalty for failure to report.--If the property-taxing
21 entity fails to submit its reports to the department within the
22 prescribed time, the department shall notify the State
23 Treasurer, whereupon the State Treasurer shall withhold further
24 payments of any development subsidy to the delinquent property-
25 taxing entity until the property-taxing entity files its reports
26 with the department.

27 Section 5. Application for economic development subsidies.

28 (a) Contents of application.--Each granting body, together
29 with the applicant for a development subsidy, shall complete an
30 application for the subsidy on a form prepared by the Department

1 of Community and Economic Development. The information required
2 on the application shall include the following:

3 (1) An application tracking number for the granting
4 agency and the project.

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

7 (3) The name, street and mailing addresses and telephone
8 number of the chief officer of the applicant's corporate
9 parent, if any.

10 (4) The name, street and mailing address and telephone
11 number of the chief officer of the applicant.

12 (5) The name, street and mailing address and telephone
13 number of the chief officer of the corporate parent of each
14 business operating on the project site, if different from the
15 applicant's corporate parent.

16 (6) The name, street and mailing address and telephone
17 number of the chief officer of each business operating on the
18 project site, if different from the applicant.

19 (7) The street address of the project site.

20 (8) The land-use classification of the project site,
21 including indication of whether it is greenfield or
22 brownfield, based on a uniform code to be established by the
23 Department of Community and Economic Development.

24 (9) The three-digit North American Industry
25 Classification System number of the project site.

26 (10) The total number of individuals employed at the
27 project site by each employer on the date of the application,
28 itemized by full-time, part-time and temporary positions.

29 (11) The total number of individuals employed in this
30 Commonwealth by the applicant's corporate parent of each

1 business operating on the project site, if any, and all
2 subsidiaries thereof as of December 31 of the prior fiscal
3 year, itemized by full-time, part-time and temporary
4 positions for each employer.

5 (12) The development subsidy being applied for with the
6 granting body and the value of such subsidy.

7 (13) The infrastructure improvements to be provided at
8 the project site.

9 (14) The number of new jobs to be created by the
10 applicant and by each business at the project site, itemized
11 by full-time, part-time and temporary positions for each
12 employer.

13 (15) The average hourly wage to be paid to all current
14 and new employees at the project site, itemized by job
15 classification, the full-time, part-time and temporary
16 positions, and further itemized by wage groups as follows: \$6
17 or less per hour, \$6.01 to \$7 per hour, \$7.01 to \$8 per hour,
18 \$8.01 to \$9 per hour, \$9.01 to \$10 per hour, \$10.01 to \$11
19 per hour, \$11.01 to \$12 per hour, \$12.01 to \$13 per hour,
20 \$13.01 to \$14 per hour, \$14.01 to \$15 per hour and \$15.01 or
21 more per hour.

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

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

30 (18) A statement as to whether the development subsidy

1 may reduce employment at any other site controlled by the
2 applicant or its corporate parent, if any, within or without
3 this Commonwealth, resulting from automation, merger,
4 acquisition, corporate restructuring or other business
5 activity.

6 (19) A certification by the chief officer of the
7 applicant as to the accuracy of the application.

8 (b) Copy of approved application to the department.--If the
9 granting body approves the application, it shall send a copy to
10 the Department of Community and Economic Development within 15
11 days of such approval. If the application is not approved, the
12 granting body shall retain the application in its records.

13 Section 6. Reports.

14 (a) Annual reports.--Each granting body shall file a
15 progress report with the Department of Community and Economic
16 Development for each project for which a development subsidy has
17 been granted no later than February 1 of each year. The report
18 shall include the following information:

19 (1) The application tracking number.

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

22 (3) The name, street and mailing addresses, telephone
23 number and the chief officer of the recipient and all
24 businesses operating at the project site.

25 (4) A summary of the number of jobs required or expected
26 to be created by the recipient and all businesses at the
27 project site, itemized by full-time, part-time and temporary
28 positions and by wage groups.

29 (5) The wages by job classification required or expected
30 to be paid by the recipient to new employees and by other

1 businesses at the project site and the amount of wages
2 actually paid.

3 (6) 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 (7) A comparison of the total employment in this
7 Commonwealth by the recipient, each business operating on the
8 project site and the recipient's corporate parent, if any, on
9 the date of the application and the date of the report,
10 itemized by full-time, part-time and temporary positions.

11 (8) A statement as to whether the use of the development
12 subsidy during the previous fiscal year has reduced
13 employment at any other site controlled by the recipient
14 corporation or other business or its corporate parent, if
15 any, within or without this Commonwealth, the extent of the
16 reduction and the name and address of the business facility
17 where the reduction took place.

18 (9) The extent and value of the infrastructure
19 improvements that have been provided for the project site.

20 (10) A signed certification by the chief officer of the
21 recipient as to the accuracy of the progress report.

22 (11) On all subsequent annual progress reports which
23 shall be filed for the duration of the subsidy or five years,
24 whichever is greater, the granting body shall indicate
25 whether the recipient is still in compliance with its job
26 creation, wage and benefit goals and whether the corporate
27 parent, if any, is still in compliance with its Commonwealth
28 employment requirement.

29 (b) Biennial report.--

30 (1) No later than 15 days after the second anniversary

1 of the date of subsidy, the granting body shall file with the
2 Department of Community and Economic Development a two-year
3 progress report including the same information as required
4 under subsection (a). The recipient shall certify as to the
5 accuracy of the report.

6 (2) The granting body shall state in the two-year report
7 whether the recipient and each business operating at the
8 project site has achieved its job creation, wage and benefit
9 goals and whether each corporate parent, if any, has
10 maintained its level of employment in this Commonwealth at no
11 less than 90% of its level of employment in this Commonwealth
12 on the date of the subsidy.

13 (c) Annual report for industrial parks and multiproject
14 sites.--The recipient that has received a development subsidy
15 for an industrial park or any other site that houses more than
16 one business shall file a separate progress report with the
17 Department of Community and Economic Development, no later than
18 February 1 of each year. The Department of Community and
19 Economic Development shall provide a form for the report that
20 shall require the following information from all new businesses
21 that have located within the multiproject site during the
22 previous calendar year:

23 (1) The name, street and mailing address and telephone
24 number of the chief officer.

25 (2) The number of employees at the site, itemized by
26 full-time, part-time and temporary positions.

27 (3) A statement as to whether the relocation into the
28 multiproject site has reduced the work force of the new
29 tenant within or without this Commonwealth, the extent of the
30 reduction in employment and the address of each business

1 facility where such a reduction took place.

2 (4) A signed certification by the chief officer of each
3 new tenant as to the accuracy of the information filed.

4 (d) Compilation and publication of data.--The department
5 shall compile and publish all data from the progress reports in
6 both written and electronic form, including the department's
7 Internet website.

8 (e) Access to project site and records.--The granting body
9 and the Department of Community and Economic Development shall
10 have access at all reasonable times to the project site and the
11 records of the recipient corporation or other business entity in
12 order to monitor the project and to prepare progress reports.

13 (f) Effect of noncompliance.--A recipient or business that
14 fails to provide the granting body with the information or
15 access required under this section shall be subject to a fine of
16 not less than \$500 per day to commence within ten working days
17 after the February 1 deadline and of not less than \$1,000 per
18 day to commence 20 days after such deadline.

19 Section 7. Subsidy limit and job quality standards.

20 A granting body may not award:

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

25 (2) A subsidy to an applicant unless the average of the
26 wages paid to employees at the project site are equal to or
27 exceed 85% of the average hourly wage paid to nonmanagerial
28 employees in this Commonwealth, except that for small
29 businesses, the average wage must equal or exceed 75% of the
30 wages established under this paragraph. The computation of

1 wages under this paragraph shall only apply to a recipient
2 that provides the health care coverage as approved in its
3 application by the granting body.

4 Section 8. Recapture.

5 (a) General rule.--Each business at the site shall fulfill
6 its job creation and wage requirements for the project site
7 within two years of the date of subsidy. The recipient shall
8 maintain its wage and benefit goals as long as the subsidy is in
9 effect or for five years, whichever is longer.

10 (b) Corporate parent duties.--The corporate parent of a
11 recipient corporation must maintain at least 90% of its
12 employment in this Commonwealth as long as the development
13 subsidy is in effect or for not less than five years, whichever
14 is longer.

15 (c) Procedure.--If the requirements under subsection (a) or
16 (b) are not fulfilled, the granting body shall recapture the
17 development subsidy from the recipient corporation as follows:

18 (1) Upon a failure by the recipient corporation or other
19 business at the site benefiting from the subsidy to create
20 the required number of jobs or to pay the required wages or
21 benefits, the amount recaptured shall be based on the pro
22 rata amount by which the unfilled jobs, wages or benefits
23 bear to the total amount of the development subsidy.

24 (2) Upon the failure of the corporate parent to maintain
25 at least 90% of its employment in this Commonwealth, the rate
26 of recapture shall equal twice the percentage by which the
27 employment is less than 90%.

28 (d) Notice of intent to recapture.--The granting body shall
29 provide notice to the recipient corporation or business at the
30 site of its intent to recapture the development subsidy and

1 state the reasons and amount to be recaptured. The recipient
2 corporation or business at the site shall remit to the governing
3 body such amount within 60 calendar days of the date of the
4 notice.

5 (e) Declaration of subsidy as null and void.--If a recipient
6 corporation or business at the site defaults on a development
7 subsidy in three consecutive calendar years, the granting body
8 shall declare the subsidy null and void, and shall so notify the
9 Department of Community and Economic Development and the
10 recipient corporation or business at the site. The recipient
11 corporation shall pay back to the granting body all remaining
12 value of the development subsidy it has not previously repaid
13 within 180 calendar days of the date of the notice of such
14 default.

15 Section 9. Private enforcement action.

16 If a granting body fails to enforce any provision of this
17 act, any individual who paid personal income taxes to the
18 Commonwealth in the calendar year prior to the year in dispute,
19 or any organization representing such taxpayers, shall be
20 entitled to bring a civil action in an appropriate court to
21 compel enforcement under this act. The court shall award
22 reasonable attorney fees and costs to such prevailing taxpayer
23 or organization.

24 Section 10. Public record disclosure.

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

1 Section 11. Preemption.

2 Nothing in this chapter shall require or authorize any
3 recipient corporation to reduce wages or benefits established
4 under any collective bargaining agreement or Federal or State
5 prevailing wage laws.

6 Section 12. Severability.

7 The provisions of this act are severable. If any provision of
8 this act or its application to any person or circumstance is
9 held invalid, the invalidity shall not affect other provisions
10 or applications of this act which can be given effect without
11 the invalid provision or application.

12 Section 40. Effective date.

13 This act shall take effect in 60 days.