
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 811 Session of
2009

INTRODUCED BY COHEN, LEVDANSKY, BELFANTI, CALTAGIRONE, STURLA,
BRENNAN, CREIGHTON, FABRIZIO, GEORGE, GOODMAN, GROVE,
GRUCELA, HARKINS, HORNAMAN, JOSEPHS, KIRKLAND, KORTZ,
LONGIETTI, McILVAINE SMITH, MILLER, MUNDY, MURT, MYERS,
M. O'BRIEN, PASHINSKI, PAYTON, READSHAW, SABATINA, SANTONI,
SIPTROTH, WAGNER, WALKO, WHITE AND YOUNGBLOOD, MARCH 9, 2009

REFERRED TO COMMITTEE ON COMMERCE, MARCH 9, 2009

AN ACT

1 Requiring companies that receive economic development subsidies
2 to ensure that subsidies result in improved standards of
3 living for working families.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Economic
8 Development and Corporate Accountability Act.

9 Section 2. Definitions.

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

13 "Corporate parent." Any person, association, corporation,
14 joint venture, partnership or other entity, that owns or
15 controls 50% or more of a recipient corporation.

16 "Date of subsidy." The date that a granting body provides

1 the initial monetary value of a development subsidy to a
2 recipient corporation. If the subsidy is for the installation of
3 new equipment, such date shall be the date the corporation puts
4 the equipment into service. If the subsidy is for improvements
5 to property, such date shall be the date the improvements are
6 finished, or the date the corporation occupies the property,
7 whichever is earlier.

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

9 "Development subsidy." Any expenditure of public funds with
10 a value of at least \$25,000, for the purpose of stimulating
11 economic development within this Commonwealth, including, but
12 not limited to, bonds, grants, loans, loan guarantees,
13 enterprise zones, empowerment zones, tax increment financing,
14 grants, fee waivers, land price subsidies, matching funds, tax
15 abatements, tax exemptions and tax credits.

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

18 "Granting body." Any agency, board, office, public benefit
19 corporation or authority of the State or local government unit
20 that provides a development subsidy.

21 "Local government unit." An agency, board, commission,
22 office, public benefit corporation or public authority of a
23 political subdivision of the State.

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

26 "Project site." The site of a project for which any
27 development subsidy is provided.

28 "Property-taxing entity." Any entity which levies taxes upon
29 real or personal property.

30 "Recipient corporation." Any person, association,

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

3 "Small business." A corporation whose corporate parent, and
4 all subsidiaries thereof, employed fewer than 20 full-time
5 employees or had total gross receipts of less than \$1,000,000
6 during the previous calendar year.

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

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.

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

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

26 (2) The name of each corporate taxpayer which claimed
27 any tax credit, abatement, exemption or reduction with a
28 value of \$5,000 or more, together with the dollar amount
29 received by each such corporation.

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

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

5 (4) All State-appropriated expenditures for economic
6 development, including line-item budgets for every State-
7 funded entity concerned with economic development.

8 Section 4. Unified reporting of property tax reductions and
9 abatements.

10 (a) Annual report.--Each property-taxing entity shall
11 annually submit a report to the department regarding any real
12 property in the entity's jurisdiction that has received a
13 property tax abatement or reduction during the fiscal year. The
14 report shall contain information including, but not limited to,
15 the name of the property owner, the address of the property, the
16 start and end dates of the property tax reduction or abatement,
17 the schedule of the tax reduction, each tax abatement, reduction
18 and exemption for the property and the amount of property tax
19 revenue not paid to the taxing entity as a result of the
20 reduction or abatement.

21 (b) Other reports.--Each property-taxing entity shall also
22 submit a report to the department that sets forth the total
23 property tax revenue not paid to such entity during the fiscal
24 year as a result of all property tax reductions and abatements
25 in the entity's jurisdiction.

26 (c) Forms.--The reports required under subsections (a) and
27 (b) shall be prepared on forms approved by the department and
28 shall be submitted to the department by the property-taxing
29 entity no later than three months after the end of the fiscal
30 year.

1 (d) Department report.--The department shall annually
2 compile and publish all of the data contained in the reports
3 required under subsections (a) and (b) in both written and
4 electronic form, including publication on the department's
5 Internet website.

6 (e) Failure to submit reports.--If a property-taxing entity
7 fails to submit required reports to the department within the
8 prescribed time, the department shall notify the State
9 Treasurer, whereupon the State Treasurer shall withhold further
10 payments of any development subsidy to the delinquent entity
11 until the entity files its reports with the department.

12 Section 5. Application for economic development subsidies.

13 (a) Application.--A development subsidy applicant shall
14 complete an application for the subsidy on a form prepared by
15 the Department of Community and Economic Development. The
16 information required on the application shall include the
17 following:

18 (1) An application tracking number provided by the
19 granting agency for the project.

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

23 (3) The name, street and mailing address and telephone
24 number of the chief officer of the applicant's corporate
25 parent.

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

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

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

1 (7) The total number of individuals employed by the
2 applicant at the project site on the date of the application,
3 broken down by full-time, part-time and temporary positions.

4 (8) The total number of individuals employed in the
5 Commonwealth by the applicant's corporate parent, and all
6 subsidiaries thereof, as of December 31 of the prior fiscal
7 year, broken down by full-time, part-time and temporary
8 positions.

9 (9) The development subsidy or subsidies being applied
10 for with the granting body and the value of such subsidy or
11 subsidies.

12 (10) The number of new jobs to be created by the
13 applicant at the project site, broken down by full-time,
14 part-time and temporary positions.

15 (11) The average hourly wage to be paid to all current
16 and new employees at the project site, broken down by full-
17 time, part-time and temporary positions, and further broken
18 down by wage groups as follows: \$8 or less an hour, \$8.01 to
19 \$9 an hour, \$9.01 to \$10 an hour, \$10.01 to \$11 an hour,
20 \$11.01 to \$12 an hour, \$12.01 to \$13 an hour, \$13.01 to \$14
21 an hour, \$14.01 to \$15 an hour, \$15.01 to \$16 an hour and
22 \$16.01 or more an hour.

23 (12) For project sites located in a metropolitan
24 statistical area, as defined by the Federal Office of
25 Management and Budget, the average hourly wage paid to
26 nonmanagement employees in the State for the industries
27 involved at the project, as established by the United States
28 Bureau of Labor Statistics.

29 (13) For project sites located outside of metropolitan
30 statistical areas, the average weekly wage paid to

1 nonmanagerial employees in the county for industries involved
2 at the project, as established by the United States
3 Department of Commerce.

4 (14) The type and amount of health care coverage to be
5 provided by the applicant within 90 days of commencement of
6 employment at the project site, including any costs to be
7 borne by the employees.

8 (15) A list of all development subsidies that the
9 applicant requests and the name of any other granting body
10 from which such subsidies are sought.

11 (16) A statement as to whether the development subsidy
12 may reduce employment at any other site controlled by the
13 applicant or its corporate parent, inside or outside this
14 Commonwealth, resulting from automation, merger, acquisition,
15 corporate restructuring or other business activity.

16 (17) A statement as to whether or not the project
17 involves the relocation of work from another address and, if
18 so, the number of full-time, part-time and temporary
19 positions to be relocated and the address from which they are
20 to be relocated.

21 (18) A certification by the chief officer of the
22 applicant as to the accuracy of the application.

23 (b) Approval.--If the granting body shall approve the
24 application, it shall send a copy to the Department of Community
25 and Economic Development within 15 days of such approval. If the
26 application is not approved, the granting body shall retain the
27 application in its records.

28 Section 6. Annual reports.

29 (a) Progress report.--Each granting body shall file a
30 progress report with the Department of Community and Economic

1 Development for each project for which a development subsidy has
2 been granted, no later than February 1 of each year. The report
3 shall include the following information:

4 (1) The application tracking number.

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

7 (3) The name, street and mailing addresses, telephone
8 number and chief officer of the recipient corporation.

9 (4) A summary of the number of jobs required, created
10 and lost, broken down by full-time, part-time and temporary
11 positions, and by wage groups as defined in section 5(11).

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

15 (6) The comparison of the total employment in this
16 Commonwealth by the recipient's corporate parent on the date
17 of the application and the date of the report, broken down by
18 full-time, part-time and temporary positions.

19 (7) A statement as to whether the use of the development
20 subsidy during the previous fiscal year reduced employment at
21 any other site controlled by the recipient corporation or its
22 corporate parent, inside or outside this Commonwealth as a
23 result of automation, merger, acquisition, corporate
24 restructuring or other business activity.

25 (8) A signed certification by the chief officer of the
26 recipient corporation as to the accuracy of the progress
27 report.

28 (b) Subsequent progress reports.--On all subsequent annual
29 progress reports, the granting body shall indicate whether the
30 recipient corporation is still in compliance with its job

1 creation, wage and benefit goals, and whether the corporate
2 parent is still in compliance with its State employment
3 requirement. Granting bodies and recipient corporations shall
4 file annual progress reports for the duration of the subsidy or
5 not less than five years, whichever period is greater.

6 Section 7. Two-year report.

7 (a) Filing.--No later than 15 days after the second
8 anniversary of the date of subsidy, the granting body shall file
9 a two-year progress report with the Department of Community and
10 Economic Development and include the same information as
11 required under section 6. The recipient corporation shall
12 certify as to the accuracy of such report.

13 (b) Job creation, etc.--The granting body shall state in the
14 two-year report whether the recipient corporation has achieved
15 its job creation, wage and benefit goals, and whether the
16 corporate parent has maintained 90% of its employment in this
17 Commonwealth.

18 (c) Compilation.--The Department of Community and Economic
19 Development shall compile and publish all data from the progress
20 reports in both written and electronic form, including
21 publication on the department's Internet website.

22 (d) Access.--The granting body and the Department of
23 Community and Economic Development shall have access at all
24 reasonable times to the project site and the records of the
25 recipient corporation in order to monitor the project and to
26 prepare progress reports.

27 (e) Fine.--A recipient corporation that fails to provide the
28 granting body with the information or access required under this
29 section shall be subject to a fine of not less than \$500 per day
30 to commence within ten working days after the February 1

1 deadline and of not less than \$1,000 per day to commence 20 days
2 after such deadline.

3 Section 8. Subsidy limit and job quality standards.

4 (a) Limitation.--A granting body shall not award a
5 development subsidy if the cost per job is greater than \$35,000.
6 Such cost shall be determined by dividing the amount of the
7 subsidy by the number of full-time jobs required under the
8 application approved by the granting body.

9 (b) Wage requirement.--A granting body shall not grant a
10 subsidy to an applicant unless the wages paid to employees at
11 the project site are equal to or exceed 85% of the average wage
12 as established under section 5(11), provided, however, that for
13 small businesses, the average wage must equal or exceed 75% of
14 wages established thereunder. The computation of wages under
15 this section shall only apply to a recipient corporation that
16 provides the health care coverage as approved in its application
17 by the granting body.

18 Section 9. Recapture.

19 (a) Requirements.--A recipient corporation shall fulfill its
20 job creation, wage, health care and other benefit requirements
21 for the project site within two years of the date of subsidy.
22 Such recipient shall maintain its wage and benefit goals as long
23 as the subsidy is in effect or five years, whichever is longer.

24 (b) Employment.--The corporate parent of a recipient
25 corporation must maintain at least 90% of its employment in the
26 State as long as the development subsidy is in effect or not
27 less than five years, whichever is longer.

28 (c) Requirements.--If the requirements under subsection (a)
29 or (b) are not fulfilled, the granting body shall recapture the
30 development subsidy from the recipient corporation as follows:

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

6 (2) Upon a failure of the corporate parent to maintain
7 90% of its employment in the State the rate of recapture
8 shall equal twice the percentage by which such employment is
9 less than 90%.

10 (d) Notice.--The granting body shall provide notice and
11 explanation to the recipient corporation of its intent to
12 recapture the development subsidy and state the amount to be
13 recaptured. The recipient corporation shall remit to the
14 governing body such amount within 60 calendar days of the date
15 of notice.

16 (e) Default.--If a recipient corporation defaults on a
17 development subsidy in three consecutive calendar years, the
18 granting body shall declare the subsidy null and void and shall
19 so notify the Department of Community and Economic Development
20 and the recipient corporation. The recipient corporation shall
21 pay back to the granting body all remaining value of the
22 development subsidy it has not previously repaid within 180
23 calendar days of the date of the notice of such default.

24 Section 10. Private enforcement action.

25 If a granting body fails to enforce any provision of this
26 section, any individual who paid personal income taxes to the
27 State in the calendar year prior to the year in dispute, or any
28 organization representing such taxpayers, shall be entitled to
29 bring a civil action in State court to compel enforcement under
30 this act. The court shall award reasonable attorney fees and

1 costs to such prevailing taxpayer or organization.

2 Section 11. Public record disclosure.

3 All records required to be prepared or maintained under this
4 section including, but not limited to, applications, progress
5 reports, recapture notices, and any other records or proceedings
6 relating thereto, shall be subject to disclosure under
7 applicable law.

8 Section 12. No reduction in wages.

9 Nothing in this act shall be construed to require or
10 authorize a recipient corporation to reduce wages established by
11 any collective bargaining agreement or Federal or State
12 prevailing wage laws.

13 Section 13. Severability.

14 The provisions of this act are severable. If any provision of
15 this act or its application to any person or circumstance is
16 held invalid, the invalidity shall not affect other provisions
17 or applications of this act which can be given effect without
18 the invalid provision or application.

19 Section 14. Effective date.

20 This act shall take effect December 1, 2009, or immediately,
21 whichever is later.