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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 154 Session of  
2015

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INTRODUCED BY TEPLITZ, FONTANA, BOSCOLA, HUGHES, SMITH, COSTA,  
TARTAGLIONE, BREWSTER, FARNESE, WOZNIAK, BROWNE AND RAFFERTY,  
JANUARY 26, 2015

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REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
JANUARY 26, 2015

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AN ACT

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

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

10 Section 1. Short title.

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

13 Section 2. Legislative findings.

14 The General Assembly finds and declares as follows:

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

19 (2) When workers receive low wages and poor benefits,

1 there are often hidden taxpayer costs imposed on citizens, in  
2 the form of Medicaid, food stamps, earned income tax credits  
3 and other forms of public assistance to the working poor and  
4 their families.

5 (3) Citizen participation in economic development has  
6 been impeded by a lack of readily accessible information  
7 regarding expenditures and outcomes.

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

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

19 Section 3. 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 who 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 on  
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 employs fewer than 20 full-time employees or has total  
9 gross receipts of less than \$1,000,000 during a 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 development subsidies  
17 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 4. 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 that 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 taxpayer.

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

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

24 Section 5. Unified reporting of property tax reductions and  
25 abatements.

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

1 limited to:

2 (1) The name of the property owner.

3 (2) The address of the property.

4 (3) The start and end dates of the property tax  
5 abatement, reduction or exemption.

6 (4) The schedule of the tax reduction.

7 (5) Each tax abatement, reduction or exemption for the  
8 property.

9 (6) The amount of property tax revenue not paid to the  
10 local government unit as a result of the abatement, reduction  
11 or exemption.

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

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

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

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

1 payments of any development subsidy to the delinquent local  
2 government unit until the local government unit files its  
3 reports with the department and the department informs the State  
4 Treasurer of compliance by the local government unit.

5 Section 6. Application for economic development subsidies.

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

11 (1) An application tracking number for the granting  
12 agency and the project.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

1           (16) A statement as to whether the development subsidy  
2 may reduce employment at any other site controlled by the  
3 applicant or its corporate parent, if any, within or without  
4 this Commonwealth, resulting from automation, merger,  
5 acquisition, corporate restructuring or other business  
6 activity.

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

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

13           (b) Copy of approved application to the department.--

14           (1) If the granting body approves the application, the  
15 granting body shall send a copy of the application to the  
16 department within 15 days of approval.

17           (2) If the application is not approved, the granting  
18 body shall retain the application in its records.

19 Section 7. Reports.

20           (a) Annual reports.--

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

28                   (i) The application tracking number.

29                   (ii) The name, street and mailing address, telephone  
30 number and chief officer of the granting body.

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

4 (iv) A summary of the number of jobs required,  
5 created and lost, itemized by full-time, part-time and  
6 temporary positions and by wage groups.

7 (v) The type and amount of health care coverage  
8 provided to the employees at the project site, including  
9 any costs borne by the employees.

10 (vi) A comparison of the total employment in this  
11 Commonwealth by the recipient's corporate parent, if any,  
12 on the date of the application and the date of the  
13 report, itemized by full-time, part-time and temporary  
14 positions.

15 (vii) A statement as to whether the use of the  
16 development subsidy during the previous fiscal year has  
17 reduced employment at any other site controlled by the  
18 recipient corporation or other business entity or its  
19 corporate parent, if any, within or without this  
20 Commonwealth as a result of automation, merger,  
21 acquisition, relocation, corporate restructuring or other  
22 business activity.

23 (viii) A signed certification by the owner or chief  
24 officer of the recipient corporation or other business  
25 entity as to the accuracy of the progress report.

26 (2) On all subsequent annual progress reports, the  
27 granting body shall indicate whether the recipient  
28 corporation is still in compliance with its job creation,  
29 wage and benefit goals and whether the corporate parent, if  
30 any, is still in compliance with its Commonwealth employment

1 requirement.

2 (b) Biennial report.--

3 (1) No later than 15 days after the second anniversary  
4 of the date of subsidy, the granting body shall file with the  
5 department a two-year progress report including the same  
6 information as required under subsection (a). The recipient  
7 corporation or other business entity shall certify the  
8 accuracy of the report.

9 (2) The granting body shall state in the two-year report  
10 whether the recipient corporation or other business entity  
11 has achieved its job creation, wage and benefit goals and  
12 whether the corporate parent, if any, has maintained its  
13 level of employment in this Commonwealth at no less than 90%  
14 of its level of employment in this Commonwealth on the date  
15 of the subsidy.

16 (c) Compilation and publication of data.--The department  
17 shall compile and publish all data from the progress reports in  
18 both written and electronic form, including the department's  
19 Internet website.

20 (d) Access to project site and records.--The granting body  
21 and the department shall have access at all reasonable times to  
22 the project site and the records of the recipient corporation or  
23 other business entity in order to monitor the project and to  
24 prepare progress reports.

25 (e) Effect of noncompliance.--A recipient corporation or  
26 other business entity that fails to provide the granting body  
27 with the information or access required under this section shall  
28 be subject to a fine of not less than \$500 per day to commence  
29 within 10 working days after the February 1 deadline and of not  
30 less than \$1,000 per day to commence 20 days after such

1 deadline.

2 Section 8. Subsidy limit and job quality standards.

3 A granting body may not award:

4 (1) (i) A development subsidy if the cost per job is  
5 greater than \$35,000.

6 (ii) The cost shall be determined by dividing the  
7 amount of the subsidy by the number of full-time jobs  
8 required under the application approved by the granting  
9 body.

10 (2) (i) A subsidy to an applicant unless the wages paid  
11 to employees at the project site are equal to or exceed  
12 85% of the average wage as established under section 6(a)  
13 (12) and (13), except, that for small businesses, the  
14 average wage must equal or exceed 75% of the wages  
15 established thereunder.

16 (ii) The computation of wages under this paragraph  
17 shall only apply to a recipient corporation or other  
18 business entity that provides the health care coverage as  
19 approved in its application by the granting body.

20 (iii) A recipient corporation or other business  
21 entity not providing the health care coverage shall pay  
22 wages to employees at the project site equal to or in  
23 excess of 100% of average wage as established under this  
24 act.

25 Section 9. Recapture.

26 (a) Recipient corporation duties.--A recipient corporation  
27 or other business entity shall:

28 (1) Fulfill its job creation, wage, health care and  
29 other benefit requirements for the project site within two  
30 years of the date of subsidy.

1           (2) Maintain its wage and benefit goals as long as the  
2           subsidy is in effect or five years, whichever is longer.

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

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

12           (1) Upon a failure by the recipient corporation or other  
13          business entity to create the required number of jobs or to  
14          pay the required wages or benefits, the amount recaptured  
15          shall be based on the pro rata amount by which the unfilled  
16          jobs, wages or benefits bear to the total amount of the  
17          development subsidy.

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

21          (d) Notice of intent to recapture.--

22           (1) The granting body shall provide notice to the  
23          recipient corporation or other business entity, and corporate  
24          parent, if any, as well as any affiliate or subsidiary, of  
25          its intent to recapture the development subsidy and state the  
26          reasons and amount to be recaptured.

27           (2) The recipient corporation or other business entity  
28          shall remit to the governing body the amount within 60  
29          calendar days of the date of the notice.

30          (e) Declaration of subsidy as null and void.--

1           (1) If a recipient corporation or other business entity  
2 defaults on a development subsidy in three consecutive  
3 calendar years, or in a shorter period if provided in the  
4 development subsidy agreement, the granting body shall  
5 declare the subsidy null and void and shall so notify the  
6 department and the recipient corporation or other business  
7 entity.

8           (2) The recipient corporation or corporate parent, if  
9 any, as well as any affiliate or subsidiary, shall pay back  
10 to the granting body all remaining value of the development  
11 subsidy it has not previously repaid within 180 calendar days  
12 of the date of the notice of the default.

13       (f) Joint and severable liability.--For the purposes of this  
14 section, the recipient corporation or other business entity,  
15 corporate parent, if any, or any affiliate or affiliated company  
16 shall be jointly and severally liable for the recapture required  
17 under subsection (c).

18 Section 10. Private enforcement action.

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

27 Section 11. Public record disclosure.

28       All records required to be prepared or maintained under this  
29 act, including, but not limited to, applications, progress  
30 reports, recapture notices and any other records or proceedings

1 relating thereto, shall be subject to disclosure under the act  
2 of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know  
3 Law.

4 Section 12. Effective date.

5 This act shall take effect in 90 days.