

JOINT HEARING

Senate Community, Economic and Recreational Development Committee House Finance Committee



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Senate Bill 1279, Printer's No. 1781

Date: June 29, 2010

Sponsor: Senator Browne

Bill Summary

Senate Bill 1279, Printer's No. 1781 establishes the Economic Development and Fiscal Accountability Act that requires the Department of Community and Economic Development (DCED) to submit a unified economic development budget, provides for a reporting of property tax reduction and abatements, for application for economic development subsidies, for reports, for subsidy limit and job quality standards and for recapture; establishes a private enforcement action; and provides for public record disclosure.

[Legislative Intent.]

The General Assembly finds and declares as follows:

1. Although the Commonwealth and its local government units have granted numerous economic development subsidies in the last 25 years, the real wage levels and health care coverage of working families have stagnated or declined.
2. When workers receive low wages and poor benefits, such jobs often impose hidden taxpayer costs on citizens, in the form of Medicaid, food stamps, earned income tax credits and other forms of public assistance to the working poor and their families.
3. Citizen participation in economic development has been impeded by a lack of readily accessible information regarding expenditures and outcomes.
4. The subsidies may result in the relocation of companies and the displacement of their former employees.
5. Therefore, in order to improve the effectiveness of expenditures for economic development and to ensure that they achieve the goal of raising living standards for working families, it is necessary to collect, analyze and make publicly available information regarding those expenditures and to enact certain safeguards for their use.

[Section 2. Definitions.]

Defined terms include among others the following terms of note:

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

“Development tax subsidy.” A tax credit, abatement, exemption or reduction of any kind, including, but not limited to, those provided as a part of a Keystone Opportunity Zone, Keystone Innovative Zone or tax increment financing, provided for the purpose of stimulating economic development with this Commonwealth.

“Small business.” A corporation or other business entity that employed fewer than 20 fulltime employees, excluding the principals, or had total gross receipts of less than \$2,500,000 during the calendar year. For the purpose of determining full-time employees and total gross receipts, if a business is a corporation, the full-time employees and gross receipts of the corporate parent and all subsidiaries thereof shall be included.

“State agency.” An agency, board, commission, office, public corporation or public authority of the Commonwealth.

“Subsidy value.” The face value of any and all development subsidies provided to a recipient corporation.

[Section 3. Unified economic development budget report.]

Requires DCED to submit an annual unified economic development budget report to the General Assembly no later than five months after the end of the Commonwealth’s fiscal year that presents all types of expenditure for economic development during the prior fiscal year, including, but not limited to:

1. Amount of uncollected State and local government tax revenues resulting from every tax credit, abatement and exemption (i.e., gross receipts, income, sales, use, raw materials, excise, property, utility, privilege, inventory taxes, etc.).
2. Name of each taxpayer and dollar amount of the tax benefit received which claimed any tax credit, abatement, exemption or reduction under paragraph (1) equal to or greater than \$5,000.
3. Any tax credit, abatement, exemption or reduction less than \$5,000 shall be included in an aggregate report by the Department of Revenue.
4. All State-related expenditures for economic development, by DCED, the Department of Labor and Industry, the Department of Education, the Department of Environment Protection, the Commonwealth Financing Agency, vocational education programs, State university research programs, industrial resource centers, Pennsylvania Infrastructure Investment Authority, work force investment boards, economic development commissions, industrial development authorities, regional development authorities, finance authorities and economic stimulus programs, etc.

[Section 4. Unified reporting of property tax reductions and abatements and other local subsidiaries.]

Each political subdivision shall annually, within three months of the end of the fiscal year, submit a report (including the amount or other related information) to DCED regarding any real property in its jurisdiction that received a property tax abatement, reduction, exemption or subsidiary during the last report of past fiscal year.

Each political subdivision shall annually, within three months of the end of the fiscal year, submit a report to DCED showing the total amount of property tax revenue not paid to it during the fiscal year as a result of all property tax abatements, reductions, exemptions and subsidies provided within its jurisdiction.

It is further required that DCED compile and publish (written and electronically) the data contained in the two reports within 30 days of them being filed.

The penalty for a political subdivision failure to report is that DCED shall notify the State Treasurer to withhold further payments of any development subsidy until the reports are filed.

[Section 5. Application for economic development subsidies.]

Each granting body along with the applicant for a development subsidy shall complete application for the subsidy on a DCED prepared form that includes the following:

1. An application tracking number for the granting agency and the project.
2. Name, street and mailing address and telephone number of the chief officer of the granting body.
3. Name, street and mailing address and telephone number of the chief officers of the applicants corporate parent (if any).
4. Name, street and mailing address and telephone number of the chief officer of the applicant.
5. Name, street and mailing address and telephone number of the chief officer of the corporate parent of each business operating on the project site, if different from the applicant’s corporate parent.
6. Name, street and mailing address and telephone number of the chief officer of each business operating on the project site, if different from the applicant.
7. Street address of the project site.
8. Land-use classification of the project site.
9. Three-digit North American Industry Classification System (NAICS) number of the project site.
10. Total number of individuals employed at the project site (itemized as full-time, part-time and temporary positions).
11. Total number of individuals employed in this Commonwealth by the applicant’s corporate parent of each business operating on the project site and all subsidiaries thereof as of December 31 of the prior fiscal year (itemized as full-time, part-time and temporary positions).
12. The development subsidy being applied for and its value.
13. Infrastructure improvements to be provided at the project site.
14. Number of new jobs to be created by the applicant and by each business at the project site (itemized by full-time, part-time and temporary positions).
15. Average hourly wage to be paid to all current and new employees at the project site (itemized by job classification, full-time, part-time and temporary positions and wage groups).
16. Type or amount of health care coverage to be provided by the applicant and each business operating at the project site within 90 days of the commencement of employment at the project site, including costs to employee.

17. List of all development subsidies applicant is requesting and name of any other granting body from which subsidies are sought.
18. Statement as to whether the development subsidy may reduce employment at any other site controlled by the applicant or its corporate parent.
19. Certification by the chief officer of the applicant as to the accuracy of the application.

If an application is approved by the granting body, it shall send a copy to DCED within 15 days. If the application is not approved, the granting body shall retain a copy of the application.

[Section 6. Reports.]

No later than February 1 of each year, each granting body shall file a progress report with DCED for each project that a development subsidy has been granted that includes the following information:

1. Application tracking number.
2. Name, street and mailing address, telephone number and chief officer of the granting body.
3. Name, street and mailing address, telephone number and chief officer of the recipient and all businesses operating on the project site.
4. Summary of the number of jobs required or expected to be created by the recipient and all businesses at the project site (itemized by full-time, part-time and temporary position).
5. Wages by job classification required or expected to be paid by the recipient to new employees and by other businesses at the project site and the amount of wages actually paid.
6. Type and amount of health care coverage provided to the employees at the project site and amount paid by employees.
7. Comparison of total employment in this Commonwealth by the recipient.
8. Statement as to whether the use of the development subsidy during the previous fiscal year has reduced employment at any other site controlled by the recipient.
9. The extent and value of infrastructure improvements that have been provided for the project site.
10. Signed certification by the chief officer of the recipient of the development subsidy regarding the accuracy of the report.
11. Granting body required to indicate, for the duration of the development subsidy or 5 years, whichever is longer, whether the recipient of the development subsidy is still compliant.

Granting body also required to file biennial (every two-years) progress report with DCED that includes the same information as described above.

The recipient of a development subsidy for an industrial park or other site that house more than one business shall file a separate progress report, no later than February 1, on form provided by DCED, that includes the following information with regard to all new businesses that have located within the multiproject site during the previous calendar year:

1. Name, street and mailing address and telephone number of the chief officer.
2. Number of employees at the site (itemized by full-time, part-time and temporary position).
3. Statement as to whether the relocation into the multiproject site has reduced the workforce of the new tenant within or without this Commonwealth.
4. Signed certification by the chief officer of each new tenant regarding the accuracy of the information.

Within 30 days of receipt, DCED shall compile and publish all information contained in all such reports.

The granting body and DCED shall have access at all reasonable times to the project site and the records of the recipient corporation.

A recipient or business that fails to provide the required information shall be subject to a fine of not less than \$500 per day to commence within ten working days after the February 1 deadline and not less than \$1,000 per day to commence 20 days after such deadline.

[Section 7. Subsidy limit and job quality standards.]

A granting body may not award a development subsidy:

1. If the cost per job is greater than \$35,000 (determined by dividing the total amount of state subsidies awarded by the number of full-time jobs required under the approved application).
2. Unless the average of the wages paid to employees is equal to or more than 80% of the average hourly wage paid to nonmanagerial employees (70% for small businesses) where the recipient provides health care coverage.
3. Unless the average of the wages paid to employees is equal to or more than 90% of the average hourly wage paid to nonmanagerial employees (80% for small businesses) where the recipient does not provide health care coverage.

[Section 8. Recapture.]

Each business at the site is required to fulfill its job creation and wage requirements for the project site within two years of subsidy. The recipient shall maintain its wage and benefit goals for term of the subsidy or five years, whichever is longer.

The corporate parent of a recipient corporation must maintain at least 90% of its employment in this Commonwealth as long as the development subsidy is in effect for not less than 5 years, whichever is longer.

If the requirements are not fulfilled, the granting body shall recapture the development subsidy on a prorata basis where the recipient corporation or other business at the site benefiting from subsidy where job or wage and benefits requirements have not been met and where there has been a failure by the parent corporation to maintain at least 90% of its employment in this Commonwealth the rate of recapture shall be equal to twice the percentage by which the employment is less than 90%.

A granting body must provide at least 60 days calendar notice to the recipient corporation or business at the site of the reason for recapture and the amount of such.

If the recipient corporation or business has had a development subsidy recaptured in three consecutive calendar years, the granting body shall declare the subsidy null and void. All remaining value of the subsidy shall be paid back by the recipient corporation or business at the site within 180 days of notice.

[Section 9. Private enforcement action.]

If granting body fails to enforce any provision, any individual taxpayer who paid Personal Income Taxes to the Commonwealth in the calendar in dispute, or any organization representing such taxpayers shall be entitled to bring a civil action (authorizes reasonable attorney fees and costs to such prevailing taxpayer or organization).

[Section 10. Public record disclosure]

All records required to be prepared or maintained shall be subject to public disclosure under the Right-to-Know Law.

[Section 11. Preemption.]

Provides that nothing in this chapter shall require or authorize any recipient corporation to reduce wages or benefits established under any collective bargaining agreement Federal or State prevailing wage laws.

[Section 12. Severability]

The provisions of this act are severable.

[Section 40. Effective date.]

This act shall take effect on the first day of the first fiscal year occurring after December 31, 2009.

Existing Law

Numerous economic development programs are currently provided for under Pennsylvania Law, although the effectiveness, efficiency and overlapping nature of various programs suggests that there is a need for more transparency, reporting, qualification criteria and recapture provisions, particularly in these difficult economic times during which available revenues continue to be limited.

Other Legislation

Senate Bill 562, Printer's No. 568 (Browne) represents similar legislation that was previously introduced and referred to the Senate Finance Committee. One of the major differences between Senate Bill 562 and Senate Bill 1279 is that Senate Bill 562 focuses on the Department of Revenue versus DCED in terms of oversight.

House Bill 2340, Printer's No. 3485 (Levdansky) represents companion legislation introduced in the House to address the same issues.

{Differences between House Bill 2340 and Senate Bill 1279} – House Bill 2340 and Senate Bill 1279 are substantially the same with the exception of some minor language differences and the following substantial difference:

- House Bill 2340 section 10 (related to public notice and hearing) provides for a public hearing under certain circumstances where subsidy exceeds \$500,000 (state government program) or \$150,000 (local government program) and public notice of such, whereas Senate Bill 1279 section 10 (relating to public record disclosure) simply provides that all records required to be prepared under this act shall be subject to disclosure under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.