

Model Legislation for Accountability in Economic Development: Disclosure

Good Jobs First

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BACKGROUND

The purpose of economic development disclosure is to allow taxpayers to see the costs and benefits of every deal, every year. That means company-specific reporting on the subsidy deal as originally granted, and then annual reporting on each deal's actual outcomes in terms of jobs created, wages and benefits paid, capital invested, and/or other public benefits.

Such sunshine is good for many reasons. Competing companies can scrutinize each other's deals, and small businesses can look at deals given to big businesses. Taxpayers can decide for themselves if the benefits of a deal match its costs. Journalists can match up subsidized companies with campaign finance and lobbying data. Local governments can examine the geographic distribution of deals and consider them for regional fairness. Advocates can see if subsidies are helping create middle-class jobs for working families and communities.

The Model Disclosure Act shines a light on companies that receive taxpayer-funded economic development subsidies and/or tax breaks, and highlights whether taxpayers received a good return on their investment. It requires the state to release a publicly-available report detailing each deal's actual outcomes on jobs created, wages and benefits paid, and other public benefits.

Unified Reporting of Property Tax Abatements and Reductions. Property taxes are sometimes the largest tax a company pays, which means property tax abatements can be the most lucrative subsidy they receive. In order to fully understand the costs and benefits of economic development, it is critical to have access to this data. Yet, very few cities, counties, or states aggregate this data or make it available online.

The "Unified Reporting of Property Tax Abatements and Reductions Act," requires the State Department of Revenue to issue annual reports on which companies are receiving property, the total amount of that tax abatement, and the total amount of property tax revenue lost during the tax year as a result. The reports must also be made available online.

Taxpayer Right to Know on Jobs Act (Reporting and Disclosure)

I. Definitions

- **“Corporate parent”** means any person, association, corporation, joint venture, partnership, or other entity that owns or controls 50 percent or more of a recipient corporation.
- **“Date of subsidy”** means the date that a granting body provides the initial monetary value of a development subsidy to a recipient corporation provided, however, that where the subsidy is for the installation of new equipment, such date shall be the date the corporation puts the equipment into service and provided, further, that where the subsidy is for improvements to property, such date shall be the date the improvements are finished, or the date the corporation occupies the property, whichever is earlier.
- **“Development subsidy”** means any expenditure of public funds with a value of at least \$25,000.00 for the purpose of stimulating economic development within the State, including but not limited to bonds, grants, loans, loan guarantees, enterprise zones, empowerment zones, tax increment financing, grants, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits.
- **“Full-time job”** means a job in which an individual is employed by a recipient corporation for at least 35 hours per week.
- **“Granting body”** means any agency, board, office, public-private partnership, public benefit corporation or authority of the State or a local government unit that provides a development subsidy.
- **“Local government unit”** means an agency, board, commission, office, public benefit corporation, or public authority of a political subdivision of the State.
- **“New Employee”** means a full-time employee who represents a net increase in the number of individuals employed by the recipient corporation in the state. “New employee” does not include an employee who performs a job that was previously performed by another employee of the recipient corporation if that job existed for at least 6 months before hiring the employee.

- **“Part-time job”** means a job in which an individual is employed by a recipient corporation for less than 35 hours per week.
- **“Project site”** means the site of a project for which any development subsidy is provided, as specified by street address, name of locality and ZIP code.
- **“Property-taxing entity”** means any entity which levies taxes upon real or personal property.
- **“Recipient corporation”** means any person, association, corporation, joint venture, partnership or other entity that receives a development subsidy.
- **“Small business”** means a corporation whose corporate parent, and all subsidiaries thereof, that employed fewer than twenty full-time employees or had total gross receipts of less than one million dollars during the calendar year.
- **“State”** means an agency, board, commission, office, public benefit corporation or public benefit authority of the State.
- **“Subsidy value”** means the face value of any and all development subsidies provided to a recipient corporation. The face value of a loan means the amount of the loan.
- **“Temporary job”** means a job in which an individual is hired for a season or for a limited period of time.
- **“Duration of subsidy”** means as many years as a subsidy benefits a recipient corporation, such as the number of years a tax credit may be claimed and/or carried forward, the number of years a loan is for, or the number of years a property tax reduction applies.

II. Annual Corporate Performance Reports

1. Each corporation subsidized by [SPECIFY PROGRAMS] shall file a disclosure report with the respective agency that granted the subsidy no later than February 1 each year. The reporting form shall be issued by the agency and include the following information:
 - a. The name, street and mailing addresses, phone number, and chief officer

of the recipient corporation along with its NAICS industry code and its Dun's identifier number;

- b. The project street address where the subsidized activity takes place if it is different from the address in (a).
- c. A summary of the number of jobs required by the terms of the subsidy deal, and actual jobs created or lost as of December 31 of the previous year. Broken down by full-time, part-time and temporary positions, and by wage groups.
- d. Whether health care insurance coverage is provided to the employees at the project site, and if so, the share of the policy premiums paid by the company;
- e. The total employment in the state of the recipient's corporate parent on the two previous dates of December 31, broken down by full-time, part-time and temporary positions;

[AS NEEDED] A summary of capital investment [OR OTHER ACTIVITY] required by the terms of the subsidy deal, and actual capital investment made as of December 31 of the previous year.

- f. A statement as to whether the subsidized project has, during the previous calendar year, resulted in reduced employment at any other site controlled by the recipient corporation or its corporate parent, inside or outside the state as a result of automation, merger, acquisition, corporate restructuring, relocation, or other business activity.
- g. A statement summarizing any instance, during the previous calendar year, in which the recipient company, or a parent or subsidiary entity, was determined by a government agency to have violated any federal, state or local law or regulation relating to environmental protection, taxation, labor standards, or employment discrimination; or was notified that an investigation of a possible violation had been initiated.

- h. A signed certification by the chief officer of the recipient corporation as to the accuracy of the progress report.
2. Recipient companies shall file such annual performance reports for the duration of the subsidy, or not less than five years, whichever period is greater.
3. The granting body and its designated agent's department shall have access at all reasonable times to the project site and the records of the recipient corporation in order to monitor the project and verify the Corporate Performance Reports.
4. A recipient corporation that fails to provide the granting body with a completed Corporate Performance Report on time 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 of not less than \$1,000 per day to commence twenty days after such deadline.
5. A recipient corporation that fails to provide the granting body access to the project site at a reasonable time shall be subject to a fine of \$1,000 per day starting with the day access is first not provided.

III. Annual Agency Report Compilations

1. The [SPECIFY AGENCIES] shall publish prominently on their respective websites a compilation of the Annual Corporate Performance Reports no later than April 1 of each year.
2. The report shall contain all of the data from the Annual Corporate Performance reports both in a searchable database and as a spreadsheet that can be downloaded in its entirety. When a new report is posted, earlier versions of the data shall remain available on the website.
3. The report shall also contain the granting body's determination of whether the company has yet met its obligations for job creation, wages, and benefits as required by the subsidy. If the granting body has previously determined that a company has achieved its obligations, the report shall contain the granting body's determination of whether the company has maintained its

achieved obligations.

4. Along with the report, the granting body should also post PDF copies of key documents relating to the subsidy award.
5. If the granting body determines that the company has failed to achieve its obligations for job creation, wages and benefits as required by the subsidy in the required period of time, or if the granting body determines that the company has failed to maintain its achieved obligations, the report shall also state what penalty or penalties the granting body has imposed upon the company.
6. The report will also include the granting body's verification that the company's corporate parent has maintained at least 90 percent of its employment in the state since December 31 of the year the subsidy was granted. If the granting body determines that the company's corporate parent has failed to maintain such a level of employment, the report shall include whatever penalty or penalties the agency has imposed upon the company.
7. A link to the website with the annual compilations should be included in the state's general transparency website.

IV. Unified Reporting of Property Tax Reductions and Abatements

- A. Each state or local property-taxing entity shall annually submit a report to the state Department of Revenue regarding any real property in the entity's jurisdiction that has received a property tax abatement or reduction during the fiscal year, including Payments in Lieu of Taxes (PILOTs). The report shall contain information 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 reduction or abatement; and
 4. For each tax year, the effective amount of the tax reduction, by both percentage rate and by dollar value, including as applicable Payments in Lieu of Taxes.
- B. Each property-taxing entity shall also submit a report to the state Department of

Revenue regarding any real property that is publicly owned and leased to a private entity for the purpose of economic development, thereby exempting the private entity from property taxes. The report shall contain the same information as specified in A1, A2, A3 and A4.

- C. Each property-taxing entity shall also submit a report to the State Department of Revenue that sets forth the total property tax revenue lost during the tax year as a result of all property tax abatements and reductions in the entity's jurisdiction.
- D. The reports required under sub-sections (A), (B), and (C) shall be submitted in electronic spreadsheet form to the State Department of Revenue, in a format promulgated by the Department, and shall be submitted no more than three months after the end of the tax year.
- E. The Department shall annually compile and publish on its website all of the data contained in the reports required under sections (A), (B), and (C) in both written and electronic spreadsheet form that can be downloaded no more than six months after the end of the tax year.
- F. If a property-taxing entity fails to submit its reports to the State Revenue Department within the prescribed time, the Department shall notify the State Comptroller, whereupon the Comptroller shall withhold payments of all state monies due to the delinquent entity until the entity files its reports with the Department.

V. Severability

If any provision of this Act is determined to be unenforceable in a court of law, such determination shall not affect the validity or enforceability of any other provision of this Act