

1 AN ACT concerning corporate accountability for tax
2 expenditures.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 1. Short title. This Act may be cited as the
6 Corporate Accountability for Tax Expenditures Act.

7 Section 5. Definitions. In this Act:

8 "Development assistance" means any form of public
9 assistance, including both on-budget and off-budget
10 assistance, including tax expenditures, made for the purpose
11 of stimulating economic development of a given corporation,
12 industry, geographic jurisdiction, or other subset of the
13 State's economy, including but not limited to industrial
14 development bonds, training grants, loans, loan guarantees,
15 enterprise zones, empowerment zones, tax increment financing,
16 grants, fee waivers, land price subsidies, infrastructure
17 whose principal beneficiary is a single business or defined
18 group of businesses at the time it is built or improved,
19 matching funds, tax abatements, tax credits, and tax
20 discounts of every kind, including corporate income, personal
21 income, sales, use, raw materials, job creation, industrial
22 investment, excise, utility, inventory, accelerated
23 depreciation, and research and development tax credits and
24 discounts.

25 "Granting body" means any public entity within the State,
26 including local governments, regional development
27 organizations, State and local public corporations, the State
28 government, and any State department or agency that provides
29 development assistance, including but not limited to the
30 Department of Commerce and Community Affairs, Department of
31 Employment Security, workforce development boards, economic

1 development commissions, industrial development authorities,
2 regional development authorities, and finance authorities.

3 "Date of assistance" means the date upon which a granting
4 body transmits the first dollar value of development
5 assistance to a recipient corporation.

6 "Property-taxing entity" means every entity in the State
7 that levies taxes upon real property.

8 "Corporate parent" means any person or legal entity,
9 organization, business, partnership, group, or corporate
10 entity recognized by law, or combination thereof, that
11 possesses, owns, or controls an interest greater than 50% of
12 the recipient corporation.

13 "Small Businesses" means those corporations whose
14 corporate parents, and all subsidiaries thereof, employed
15 fewer than an average of 20 full-time equivalent employees or
16 that had gross receipts of less than \$1,000,000 in all United
17 States jurisdictions during the calendar year for which
18 disclosure is required.

19 "In effect" refers to any calendar year within the
20 duration of the development assistance, including but not
21 limited to the duration of any loan, loan guarantee, tax
22 credit or tax credit carryforward, property tax reduction or
23 abatement, or tax increment financing. For one-time forms of
24 development assistance such as grants and land price
25 subsidies, "in effect" refers to a period of not less than 5
26 years from the date of assistance.

27 "Value of assistance" means the face value of any form of
28 development assistance, such as a bond amount.

29 "Specific project site" means that distinct operational
30 unit to which any development assistance is applied.

31 "Full-time job" means a job in which the new employee
32 works for the recipient corporation at a rate of at least 35
33 hours per week.

34 "Part-time job" means a job in which the new employee

1 works for the recipient corporation at a rate of less than 35
2 hours per week.

3 "Temporary job" means a job in which the new employee is
4 hired for a specific duration of time or season.

5 Section 10. Disclosure of State tax expenditures.

6 (a) Beginning July 1, 2003, and for each succeeding
7 year, the Department of Revenue shall provide a detailed tax
8 expenditure budget to the General Assembly, derived from
9 State income tax filings, or other relevant filings, for the
10 previous calendar year. The disclosure report shall provide,
11 but not be limited to, the following data:

12 (1) The dollar amount of tax expenditures made by
13 the State, in the form of uncollected revenues, for each
14 individual tax credit provided by the State, including
15 credits for the wages of certain qualified employees,
16 enterprise zones, empowerment zones, tax increment
17 financing, grants, matching funds, tax abatements, and
18 tax credits and tax discounts of every kind, including
19 corporate income, personal income, sales, use, raw
20 materials, job creation, industrial investment, excise,
21 utility, inventory, accelerated depreciation, and
22 research and development tax credits or discounts.

23 (2) For each of the tax expenditures, except as
24 specified in item (3), an itemization of the name of each
25 individual corporate taxpayer that claimed the credit of
26 any value equal to or greater than \$5,000, and the
27 specific dollar amount credited to the corporation's tax
28 liability under that credit for that year.

29 (3) Credits claimed by individual corporations of
30 less than \$5,000 shall not be itemized as required in
31 item (2). Instead, in reporting credits for each tax
32 expenditure, the Department of Revenue shall aggregate
33 all claims of less than \$5,000 and report them as a

1 single non-specified group, with the number of claimants
2 stated.

3 (b) All data produced by the Department of Revenue and
4 received by the General Assembly in compliance with this Act
5 shall be fully subject to the Freedom of Information Act.

6 Section 15. Disclosure of property tax reductions and
7 abatements.

8 (a) On or before April 1, 2003, the State Department of
9 Revenue shall promulgate a standardized disclosure registry
10 for use by all property-taxing entities. The form shall
11 require, but not be limited to, the following data:

12 (1) The name of the property owner.

13 (2) The address and description of the property.

14 (3) The date upon which any individual property tax
15 reduction or abatement first took effect.

16 (4) The date upon which any individual property tax
17 reduction or abatement is scheduled to expire.

18 (5) The rate or schedule of each individual
19 property tax reduction or abatement for the period
20 between the date it took effect and the date it is
21 scheduled to expire.

22 (6) The entity's aggregate foregone revenue for the
23 calendar year as a result of each property tax reduction
24 or abatement.

25 (7) A compilation and summary of the entity's total
26 foregone revenue as a result of all property tax
27 reductions or abatements, including a summary of foregone
28 revenue for each kind of reduction or abatement.

29 (8) The respective shares of the entity's property
30 tax revenues in the reported year that went to each
31 designated public agency, including but not limited to
32 school boards, general funds, public safety agencies,
33 fire departments, park districts, and general

1 administration.

2 (b) Beginning April 1, 2003 and for each year
3 thereafter, every property-taxing entity in the State shall
4 employ this standardized registry to report to the State
5 Department of Revenue all property tax reductions or
6 abatements which had effect during the previous calendar
7 year.

8 (c) The Department of Revenue shall, by June 1, 2003 and
9 each year thereafter, compile and publish all data in all of
10 the disclosure registries in both written and electronic
11 form.

12 (d) If a property-taxing entity fails to comply with
13 subsection (b), the Department of Revenue shall, within 10
14 working days of the April 1 filing deadline, notify the
15 Department of Commerce and Community Affairs of that failure.
16 Upon receipt of the notice, the Department of Commerce and
17 Community Affairs shall suspend within 33 working days any
18 current development assistance activities under its control
19 in the property-taxing entity's jurisdiction, and shall be
20 prohibited from completing any current development assistance
21 or providing any future development assistance in the
22 non-compliant jurisdiction until it receives proof from the
23 Department of Revenue that the property taxing entity has
24 complied with subsection (b).

25 (e) If any of the State's various agencies fails to
26 enforce this Section, any person who filed an income tax
27 return with the State in the calendar year prior to the year
28 in dispute shall have standing to sue to compel the State to
29 enforce this Section.

30 (f) All data generated in compliance with subsections
31 (a) and (b) are fully subject to the Freedom of Information
32 Act.

33 Section 20. Standardized applications for on-budget

1 development.

2 (a) On or before April 1, 2003, the Department of
3 Commerce and Community Affairs shall promulgate a
4 standardized application form for on-budget development
5 assistance for use by all granting bodies. The form shall
6 require, but not be limited to, the following data:

7 (1) An application tracking number that is specific
8 to both the granting agency and to each application.

9 (2) The name, street and mailing addresses, phone
10 number, and chief officer of the granting body.

11 (3) The name, street and mailing addresses, phone
12 number, and chief officer of the corporate parent of the
13 applicant corporation.

14 (4) The name, street and mailing addresses, phone
15 number, 4-digit SIC number, and chief officer of the
16 applicant corporation at the specific project site for
17 which development assistance is sought.

18 (5) The applicant corporation's total number of
19 employees at the specific project site on the date of the
20 application, broken down by full-time, part-time, and
21 temporary.

22 (6) The total number of employees in the State of
23 the applicant corporation's corporate parent, and all
24 subsidiaries thereof, as of December 1 of the year
25 preceding the date of application, broken down by
26 full-time, part-time, and temporary;

27 (7) The kind of development assistance and value of
28 assistance being applied for.

29 (8) The number of new jobs to be created by the
30 development assistance, broken down by full-time,
31 part-time, and temporary.

32 (9) The average hourly wage to be paid within one
33 year of hiring to the new employees, broken down by
34 number of full-time, part-time, and temporary employees,

1 and broken down by wage bands as follows: \$6 or less an
2 hour, \$6.01 to \$7 an hour, \$7.01 to \$8 an hour, \$8.01 to
3 \$9 an hour, \$9.01 to \$10 an hour, \$10.01 to \$11 an hour,
4 \$11.01 to \$12 an hour, \$12.01 to \$13 an hour, \$13.01 to
5 \$14 an hour, and \$14.01 or more per hour.

6 (10) For applicant project sites located in a
7 Metropolitan Statistical Area, as defined by the U.S.
8 Census Bureau, the average hourly wage paid to
9 non-managerial employees in the applicant's industry in
10 the State, as most recently provided by the U.S. Bureau
11 of Labor Statistics to the 2 or 3-digit SIC number
12 specification, as available.

13 (11) For applicant project sites located outside of
14 Metropolitan Statistical Areas, the average weekly wage
15 paid in the county, as most recently reported by the U.S.
16 Department of Commerce in its County Business Patterns
17 reports.

18 (12) The nature of employer-paid health care
19 coverage to be provided within 90 days of hiring to the
20 employees filling the new jobs, including any costs to be
21 borne by the new employees.

22 (13) A list of all other forms of development
23 assistance the applicant corporation is seeking for the
24 specific project site, and the name of each granting body
25 from which that development assistance is being sought.

26 (14) A narrative, if necessary, describing how the
27 applicant's use of the development assistance may reduce
28 employment at any site in any United States jurisdiction
29 controlled by the applicant corporation or its corporate
30 parent, including but not limited to events such as
31 automation, consolidation, merger, acquisition, product
32 line movement, business activity movement, or
33 restructuring by either the applicant corporation or its
34 corporate parent.

1 (15) Individual certifications by the chief
2 officers of both the applicant corporation and the
3 granting body as to the accuracy of the application,
4 under penalty of perjury.

5 (b) Beginning April 1, 2003, every granting body in the
6 State, jointly with applicant corporations, shall fill out
7 the standardized application form as prescribed in this
8 Section each time a corporation applies for development
9 assistance.

10 Section 25. On-budget development assistance disclosure.

11 (a) Beginning February 1, 2004 and each year thereafter,
12 every granting body in the State shall submit to the
13 Department of Commerce and Community Affairs copies of all
14 the standardized applications forms for development
15 assistance that it has received in the previous calendar
16 year. Upon each form, the granting body shall designate
17 whether the development assistance is pending, was approved,
18 or was not approved, and for those applications that were
19 approved, the date of assistance if the date of assistance
20 occurred in the previous calendar year.

21 (b) For those applications that were approved but for
22 which the date of assistance did not occur in the same
23 calendar year, each granting body shall report in its next
24 subsequent February 1 annual report to the Department
25 relevant dates of assistance.

26 (c) For each development assistance application that was
27 approved, and for which the date of assistance has occurred
28 in a reporting year, each granting agency shall submit to the
29 Department of Commerce and Community Affairs a progress
30 report that shall include, but not limited to, the following
31 data:

- 32 (1) The application tracking number.
- 33 (2) The name, street and mailing addresses, phone

1 number, and chief officer of the granting body.

2 (3) The name, street and mailing addresses, phone
3 number, 4-digit SIC number, and chief officer of the
4 corporation at the specific project site for which the
5 development assistance was approved.

6 (4) The kind of development assistance and value of
7 assistance that was approved;

8 (5) The applicant's total level of employment at
9 the specific project site on the date of the application
10 and the applicant's total level of employment at the
11 specific project site on the date of the report, broken
12 down by full-time, part-time, and temporary, and a
13 computation of the gain or loss in each category.

14 (6) The number of new jobs the applicant
15 corporation stated in its application would be created by
16 the development assistance, broken down by full-time,
17 part-time, and temporary.

18 (7) The total level of employment in the State of
19 the applicant's corporate parent, and all subsidiaries
20 thereof, as of December 31 of the year preceding the date
21 of application and the total level of employment in the
22 State of the applicant's corporate parent, and all
23 subsidiaries thereof, as of each December 31 up through
24 the reporting year, broken down by full-time, part-time,
25 and temporary, and a statement of the gain or loss in
26 each category from the earliest reported year to the most
27 recent;

28 (8) The average hourly wage paid as of December 31
29 of the reporting year to employees filling the new jobs
30 at the specific project site, broken down by full-time,
31 part-time, and temporary.

32 (9) The nature of employer-paid health care
33 coverage being provided within 90 days of hiring to the
34 employees filling the new jobs, including any costs being

1 borne by the new employees.

2 (10) A narrative, if necessary, describing how the
3 recipient corporation's use of the development assistance
4 during the reporting year has reduced employment at any
5 site in any United States jurisdiction controlled by the
6 applicant or its corporate parent, including but not
7 limited to events such as automation, consolidation,
8 merger, acquisition, product line movement, business
9 activity movement, or restructuring by either the
10 applicant or its corporate parent.

11 (11) Signed individual certifications by the chief
12 officers of both the applicant corporation and the
13 granting body as to the accuracy of the progress report,
14 under penalty of perjury.

15 (d) The granting body and the Department of Commerce and
16 Community Affairs all have full investigative authority to
17 verify the applicant's progress report data, including but
18 not limited to inspection of the specific project site and
19 analysis of tax and payroll records.

20 (e) By June 1, 2004 and by June 1 of each year
21 thereafter, the Department of Commerce and Community Affairs
22 of shall compile and publish all data in all of the
23 development assistance progress reports in both written and
24 electronic form.

25 (f) Every aspect all development assistance
26 applications, progress reports, and the Department of
27 Commerce and Community Affairs' compilation of applications
28 and progress reports shall be fully subject to the Freedom of
29 Information Act.

30 (g) If a granting body fails to comply with subsections
31 (a) through (c), the Department of Commerce and Community
32 Affairs shall, within 10 working days of the February 1
33 filing deadline, suspend any current development assistance
34 activities under its control in the body's jurisdiction, and

1 shall be prohibited from proceeding with any current or
2 future development assistance activities under its control in
3 the granting body's jurisdiction, until it receives proof
4 that the negligent granting body or recipient corporation has
5 complied with this Act.

6 Section 30. Job creation and job quality standards.

7 (a) In considering development assistance applications,
8 all granting bodies shall perform 2 analyses concerning the
9 projected wages and benefits. Specifically:

10 (1) In considering development assistance
11 applications, all granting bodies shall compare the
12 aggregate projected wage with existing wages. To derive
13 the aggregate projected wage, the granting body shall
14 compute the weighted hourly average wage for all new
15 employees, including full-time, part-time, and temporary
16 employees. If the aggregate projected wage is less than
17 85% of existing wages, the application shall be denied.
18 For small businesses, if the aggregate projected wage is
19 less than 75% of existing wages, the application shall be
20 denied.

21 (2) In considering development assistance
22 applications, all granting bodies shall perform a second
23 wage computation to consider the value of health care
24 coverage provided to full-time employees. If the
25 applicant corporation is not providing health care
26 coverage to full-time employees, the granting body shall
27 subtract \$1.50 an hour from the projected wage. If the
28 recipient corporation projects some health care costs to
29 be borne by the new full-time employees, the granting
30 body shall, based on data from the applicant corporation,
31 estimate the hourly cost to the new full-time employee of
32 those costs and subtract that amount from the projected
33 wage. If the amount resulting from the subtraction is

1 less than 80% of existing wages, the application shall be
2 denied. For small businesses, if the amount resulting
3 from the subtraction is less than 70% of existing wages,
4 the application shall be denied.

5 (b) Granting bodies shall perform a third eligibility
6 analysis. In considering development assistance applications,
7 all granting bodies shall divide the value of assistance by
8 the number of projected full-time jobs. If the resulting sum
9 exceeds \$35,000, the application shall be denied.

10 (c) A granting body's requirement under this Section may
11 be waived in a bona fide collective bargaining agreement that
12 covers employees at the specific project site of the
13 applicant corporation, but only if the waiver is explicitly
14 set forth in the collective bargaining agreement in clear and
15 unambiguous terms. Unilateral implementation of terms and
16 conditions of employment by either party to a collective
17 bargaining agreement shall not constitute, or be permitted,
18 as a waiver.

19 Section 35. Recapture.

20 (a) Recipient corporations are required to achieve their
21 job creation and wage and benefit goals within 2 years of the
22 date of assistance. They are also required to maintain their
23 wage and benefit goals as long as the benefit is in effect.
24 Corporate parents of recipient corporations are required to
25 maintain at least 90% of their original State employment.

26 (b) Granting bodies shall within 10 working days after
27 the second anniversary of the date of assistance, fill out a
28 standardized progress report and the recipient corporation
29 shall sign it and certify its accuracy under penalty of
30 perjury. This second anniversary progress report shall be
31 filed by the granting body with the Department of Commerce
32 and Community Affairs along with the granting body's next
33 annual filing of progress reports.

1 (c) The granting body shall indicate on this second
2 anniversary progress report whether the recipient corporation
3 has achieved its job creation and wage and benefit goals, and
4 whether the corporate parent has maintained 90% of its State
5 employment.

6 (d) On all subsequent annual progress reports, the
7 granting body shall indicate whether or not the recipient
8 corporation is still in compliance with its job creation and
9 wage and benefit goals, and whether the corporate parent is
10 still in compliance with its State employment maintenance
11 requirement.

12 (e) If on any progress report occasion, beginning with
13 the second anniversary progress report, a granting body finds
14 that a recipient corporation has not achieved its job
15 creation or wage or benefit goals, or the corporate parent
16 has not maintained 90% of its State employment the granting
17 body must, within 10 working days, file a finding of
18 development assistance default with the State Department of
19 and the recipient corporation.

20 (f) If a recipient corporation defaults on development
21 assistance, it must pay back to the granting body that
22 fraction of the development assistance that accrued to its
23 benefit for the calendar year in which the default occurred.
24 For one time forms of development assistance such as grants
25 or land price discounts, a defaulting recipient corporation
26 must pay back to the granting body one-fifth of the value of
27 assistance. Remittance of the payback by the recipient
28 corporation to the granting body shall take place within 60
29 calendar days of the delivery of the default notice to the
30 recipient corporation.

31 (g) If a recipient corporation defaults on development
32 assistance, in 3 consecutive calendar years, the granting
33 body shall declare the development assistance void, and shall
34 so notify the Department of Commerce and Community Affairs

1 and the recipient corporation. Upon this declaration, the
2 recipient corporation must pay back to the granting body all
3 remaining value of the development assistance it has not
4 already paid back. Remittance of the void payback by the
5 recipient corporation to the granting body shall take place
6 within 180 calendar days of the delivery of the notice to the
7 recipient corporation.

8 (h) Every aspect of all development assistance default
9 notices, recapture remittances, associated correspondence,
10 and related proceedings shall be fully subject to the Freedom
11 of Information Act.

12 (i) If a granting body fails to enforce this Section,
13 any person who to the State in the calendar year prior to the
14 year in dispute, or any organization representing those
15 taxpayers, is entitled to bring a civil action in the circuit
16 court to compel enforcement under this Section. The court
17 shall award to any prevailing taxpayer plaintiff or
18 organizational plaintiff, reasonable attorney's fees and
19 actual incurred costs in pursuing the enforcement action.