Corporate Accountability

Every year, states and cities spend more than $50 billion on subsidies—mostly tax incentives—for businesses. But few states have mechanisms to monitor the cost-effectiveness of tax expenditures, much less hold businesses accountable for promises of job creation.

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Summary

- **Every year, states and cities spend more than $50 billion on subsidies—mostly tax incentives—for businesses.**
- **In recent years, states have significantly expanded their use of tax expenditures.**
- **Few states have mechanisms to monitor the cost-effectiveness of tax expenditures, much less hold businesses accountable for promises of job creation.**
- **Tax breaks costing more than $100,000 per job created are not unusual.**
- **Even those jobs created from tax expenditures often fail to meet any standard of good jobs.**
- **It is just plain good government and economic sense to ensure that tax expenditures are spent wisely and well.**
- **States, cities and counties are beginning to demand accountability for tax expenditures.**
- **Corporate accountability legislation ensures an annual assessment of the cost effectiveness of tax incentive programs.**

Every year, states and cities spend more than $50 billion on subsidies—mostly tax incentives—for businesses.

The subsidies take many forms: corporate income tax credits, property tax abatements, low-interest loans, enterprise zones, tax increment financing, training grants, land and site preparation, and infrastructure. In return, companies promise economic development, especially the creation of new jobs.

In recent years, states have significantly expanded their use of tax expenditures.

In 1977, only nine states gave tax credits to businesses for research and development; now 36 states do. Only 13 states made loans for machinery and equipment; now 43 do. Only 20 states provided tax-free revenue bond loans; now 44 do. Only 21 states granted corporate income tax exemptions; now 37 do.

Few states have mechanisms to monitor the cost-effectiveness of tax expenditures, much less hold businesses accountable for promises of job creation.

In most states, it is currently not possible to calculate the cost-effectiveness of tax incentives. Moreover, once granted, measures initiated in the name of economic development are seldom audited or sunsetted, especially tax breaks.

Tax breaks costing more than $100,000 per job created are not unusual.

In those states where tax expenditure costs are disclosed, dozens of deals have been discovered in which subsidies exceed $100,000 per job created.[1] The ratio of dollars in tax subsidies to the actual number of jobs retained or created as the result of tax expenditures is often enormous.

Even those jobs created from tax expenditures often fail to meet any standard of good jobs.

When companies locate in economically underdeveloped areas, wages and benefits are often well below the state's median earnings. Moreover, tax breaks intended to help blighted urban areas are frequently diverted to suburbs. Programs such as tax increment financing and enterprise zones, originally created to reverse inner-city decline, have been stretched or deregulated so that even affluent suburbs can use them, often simply to pirate jobs from other jurisdictions in the same metropolitan area.[2]

It is just plain good government and economic sense to ensure that tax expenditures are spent wisely and well.

Citizens rely upon elected officials to be fiscally responsible with taxpayer dollars. Tax breaks and subsidies should be at least as well-scrutinized as line items in the state budget. But they are not.

While lawmakers hold public schools strictly accountable based upon test scores, and judge social services using cost and quality of service indicators, few states apply the same accountability standards to incentives such as sales tax exemptions, tax abatements, tax credits, and industrial revenue bonds.

States, cities and counties are beginning to demand accountability for tax expenditures.

In 2003, Illinois enacted a landmark corporate accountability law that catalogues all state subsidies, mandates extensive disclosure in applications for economic assistance, requires annual progress reports from companies that receive assistance, and provides for the recapture of tax credits from corporations that do not meet their obligations. In addition, at least 37 states and more than 80 cities and counties have attached some job quality standards—such as "living wages," health care benefits, and full-time hours—to incentives such as tax abatements, revenue bonds, and investment tax credits.[3] Job quality standards promote fiscal responsibility, since they help to avoid the phenomenon of taxpayers subsidizing poverty-level jobs with additional outlays such as food stamps, Medicaid and the Earned Income Tax Credit.

Corporate accountability legislation ensures an annual assessment of the cost effectiveness of tax incentive programs.

Model legislation based upon "corporate accountability" laws enacted in Illinois, Minnesota and Maine provides comprehensive accountability standards. The legislation gives policymakers and the public information about specific deals and overall programs. This legislation:

- Requires an analysis of every kind of state expenditure for economic development.

- Imposes disclosure requirements for annual, company-specific reports on each incentive deal, as well as company-specific disclosure of state corporate income tax credits (with small-business exceptions), as part of a comprehensive report on each state program, including both appropriations and tax expenditures.

- Caps incentives at $35,000 per job, a level derived from two federal agencies, the Department of Housing and Urban Development and the Small Business Administration.

- Mandates a market-based system of wage floors pegged at 85 percent of the market, with an extra 10 percent allowance for small businesses.

This policy summary relies in large part on information from Good Jobs First.

Endnotes

[1] Council of State Governments biannual survey.

[2] Good Jobs First, "Straying from Good Intentions: How States are Weakening Enterprise Zone and Tax Increment Financing Programs," August 2003.

[3] Good Jobs First, "The Policy Shift to Good Jobs," 2000.

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For more information...

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202-387-6030
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AFL-CIO
815 16th Street NW
Washington, DC 20006
202-637-5000
www.aflcio.org

Corporation for Enterprise Development: Business Incentives Reform Clearinghouse
777 North Capitol Street NE, Suite 800
Washington, DC 20002
202-408-9788
www.cfed.org / main / econDev / bi / main / default.htm

Good Jobs First
1311 L Street NW
Washington, DC 20005
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www.ctj.org / itep / gjf.htm

Economic Development and Corporate Accountability Act

SECTION 1. SHORT TITLE

This Act shall be called the "Economic Development and Corporate Accountability Act."

SECTION 2. FINDINGS AND PURPOSE

(A) FINDINGS—The legislature finds:

1. Although the state and its local government units have granted numerous economic development subsidies over the last 25 years, the real wage levels and healthcare coverage of working families have declined.

2. When workers receive low wages and poor benefits, such jobs often impose hidden costs on the state, 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. It is necessary to collect, analyze and make public information regarding those expenditures for economic development, and to enact certain safeguards for their use.

(B) PURPOSE—This law is enacted to improve the effectiveness of economic development expenditures and to ensure that such expenditures raise living standards for working families.

SECTION 3. ECONOMIC DEVELOPMENT AND CORPORATE ACCOUNTABILITY

After section XXX, the following new section XXX shall be inserted:

(A) DEFINITIONS—In this section:

1. "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.

2. "Date of subsidy" means the date that a granting body provides the initial monetary value of a development subsidy to a recipient corporation. If the subsidy is for the installation of new equipment, such date shall be the date the corporation puts the equipment into service. If 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.

3. "Development subsidy" means any expenditure of public funds with a value of at least $25,000, 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.

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

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5. "Granting body" means any agency, board, office, public benefit corporation, or authority of the state or local government unit that provides a development subsidy.

6. "Local government unit" means an agency, board, commission, office, public benefit corporation, or public authority of a political subdivision of the state.

7. "Part-time job" means a job in which an individual is employed by a recipient corporation for less than 35 hours per week.

8. "Project site" means the site of a project for which any development subsidy is provided.

9. "Property-taxing entity" means any entity which levies taxes upon real or personal property.

10. "Recipient corporation" means any person, association, corporation, joint venture, partnership, or other entity that receives a development subsidy.

11. "Small business" means a corporation whose corporate parent, and all subsidiaries thereof, employed fewer than 20 full-time employees, or had total gross receipts of less than $1 million during the previous calendar year.

12. "State" means an agency, board, commission, office, public benefit corporation, or public benefit authority of the state.

13. "Subsidy value" means the face value of any and all development subsidies provided to a recipient corporation.

14. "Temporary job" means a job in which an individual is hired for a season, or for a limited period of time.

(B) UNIFIED ECONOMIC DEVELOPMENT BUDGET

The [Department of Revenue] shall submit an annual Unified Economic Development Budget to the legislature no later than three months after the end of the state's fiscal year. The report shall present all types of expenditures for economic development during the prior fiscal year, including but not limited to:

1. The amount of uncollected state tax revenues resulting from every corporate tax credit, abatement, exemption and reduction provided by the state or a local governmental unit including but not limited to gross receipts, income, sales, use, raw materials, excise, property, utility, and inventory taxes.

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

3. Any tax credit, abatement, exemption or reduction received by a corporation of less than $5,000 each shall not be itemized. The [Department of Revenue] shall report an aggregate dollar amount of such expenditures and the number of companies so aggregated for each tax expenditure.

4. All state appropriated expenditures for economic development, including line-item budgets for every state-funded entity concerned with economic development, including but not limited to [list appropriate state agencies].

(C) UNIFIED REPORTING OF PROPERTY TAX REDUCTIONS AND ABATEMENTS

1. Each property-taxing entity shall annually submit a report to the [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. The report shall contain information including, but not limited to: the name of the property owner; the address of the property; the start and end dates of the property tax reduction or abatement; the schedule of the tax reduction; each tax abatement, reduction and exemption for the property; and the amount of property tax revenue not paid to the taxing entity as a result of the reduction or abatement.

2. Each property-taxing entity shall also submit a report to the [Department of Revenue] setting forth the total property tax revenue not paid to such entity during the fiscal year as a result of all property tax reductions and abatements in the entity's jurisdiction.

3. The reports required under paragraphs (1) and (2) shall be prepared on two forms approved by the [Department of Revenue], and shall be submitted to the Department by the property-taxing entity no later than three months after the end of the fiscal year.

4. The [Department of Revenue] shall annually compile and publish all of the data contained in the reports required under paragraphs (1) and (2) in both written and electronic form, including publication on the Department's website.

5. If a property-taxing entity fails to submit required reports to the [Department of Revenue] within the prescribed time, the Department shall notify the [Comptroller], whereupon the [Comptroller] shall withhold further payments of any development subsidy to the delinquent entity until the entity files its reports with the Department.

(D) APPLICATION FOR ECONOMIC DEVELOPMENT SUBSIDIES

1. A development subsidy applicant shall complete an application for the subsidy on a form prepared by the [Department of Economic Development]. The information required on the application shall include the following:

a. An application tracking number provided by the granting agency for the project.
b. The name, street and mailing address, and phone number of the chief officer of the granting body provided by the granting agency.
c. The name, street and mailing address, and phone number of the chief officer of the applicant's corporate parent.
d. The name, street and mailing address, and phone number of the chief officer of the applicant.
e. The street address of the project site.
f. The three-digit North American Industry Classification System number of the project site.
g. The total number of individuals employed by the applicant at the project site on the date of the application, broken down by full-time, part-time, and temporary positions;
h. The total number of individuals employed in the state by the applicant's corporate parent, and all subsidiaries thereof, as of December 31 of the prior fiscal year, broken down by full-time, part-time and temporary positions.
i. The development subsidy or subsidies being applied for with the granting body, and the value of such subsidy or subsidies.
j. The number of new jobs to be created by the applicant at the project site, broken down by full-time, part-time, and temporary positions.

k. The average hourly wage to be paid to all current and new employees at the project site, broken down by full-time, part-time, and temporary positions, and further broken down by wage groups as follows: $6.00 or less an hour, $6.01 to $7.00 an hour, $7.01 to $8.00 an hour, $8.01 to $9.00 an hour, $9.01 to $10.00 an hour, $10.01 to $11.00 an hour, $11.01 to $12.00 an hour, $12.01 to $13.00 an hour, $13.01 to $14.00 an hour, and $14.01 or more per hour.
l. For project sites located in a Metropolitan Statistical Area, as defined by the federal Office of Management and Budget, the average hourly wage paid to non-managerial employees in the State for the industries involved at the project, as established by the U.S. Bureau of Labor Statistics.
m. For project sites located outside of Metropolitan Statistical Areas, the average weekly wage paid to non-managerial employees in the county for industries involved at the project, as established by the U.S. Department of Commerce.
n. The type and amount of health care coverage to be provided by the applicant within ninety days of commencement of employment at the project site, including any costs to be borne by the employees.
o. A list of all development subsidies that the applicant is requesting, and the name of any other granting body from which such subsidies are sought.
p. A statement as to whether the development subsidy may reduce employment at any other site controlled by the applicant or its corporate parent, within or without of the state, resulting from automation, merger, acquisition, corporate restructuring, or other business activity.
q. A statement as to whether or not the project involves the relocation of work from another address and if so, the number of full-time, part-time and temporary jobs to be relocated, and the address from which they are to be relocated.
r. A certification by the chief officer of the applicant as to the accuracy of the application.

2. If the granting body shall approve the application, it shall send a copy to the [Department of Economic Development] within 15 days of such approval. If the application is not approved, the granting body shall retain the application in its records.

(E) ANNUAL REPORTS

1. Each granting body shall file a progress report with the [Department of Economic Development] for each project for which a development subsidy has been granted, no later than February 1 each year. The report shall include the following information:

a. The application tracking number.
b. The name, street and mailing addresses, phone number, and chief officer of the granting body.
c. The name, street and mailing addresses, phone number, and chief officer of the recipient corporation.
d. A summary of the number of jobs required, created and lost, broken down by full-time, part-time and temporary positions, and by wage groups as defined in (D)(1)(k).
e. The type and amount of healthcare coverage provided to the employees at the project site, including any costs borne by the employees.
f. The comparison of the total employment in the state by the recipient's corporate parent on the date of the application and the date of the report, broken down by full-time, part-time and temporary positions;
g. A statement as to whether the use of the development subsidy during the previous fiscal year reduced employment at any other site controlled by the recipient corporation or its corporate parent, within or outside of the state as a result of automation, merger, acquisition, corporate restructuring or other business activity.
h. A signed certification by the chief officer of the recipient corporation as to the accuracy of the progress report.

2. On all subsequent annual progress reports, the granting body shall indicate whether the recipient corporation is still in compliance with its job creation, wage, and benefit goals, and whether the corporate parent is still in compliance with its state employment requirement.

3. Granting bodies and recipient corporations shall file annual progress reports for the duration of the subsidy, or not less than five years, whichever period is greater.

(F) TWO YEAR-REPORT

1. No later than 15 days after the second anniversary of the date of subsidy, the granting body shall file a two-year progress report with the [Department of Economic Development], and include the same information as required under section (E). The recipient corporation shall certify as to the accuracy of such report.

2. The granting body shall state in the two-year report whether the recipient corporation has achieved its job creation, wage, and benefit goals, and whether the corporate parent has maintained 90 percent of its employment in the state.

3. The [Department of Economic Development] shall compile and publish all data from the progress reports in both written and electronic form, including publication on the Department's website.

4. The granting body and the [Department of Economic Development] 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 to prepare progress reports.

5. A recipient corporation that fails to provide the granting body with the information or access required under this section shall be subject to a fine of not less than $500 per day to commence within 10 working days after the February 1 deadline, and of not less than $1,000 per day to commence 20 days after such deadline.

(G) SUBSIDY LIMIT AND JOB QUALITY STANDARDS

1. A granting body shall not award a development subsidy if the cost per job is greater than $35,000. Such cost shall be determined by dividing the amount of the subsidy by the number of full-time jobs required under the application approved by the granting body.

2. A granting body shall not grant a subsidy to an applicant unless the wages paid to employees at the project site are equal to or exceed 85 percent of the average wage as established under paragraphs (D)(1)(l) and (D)(1)(m), provided, however, that for small businesses, the average wage must equal or exceed 75 percent of the wages established thereunder. The computation of wages under this section shall only apply to a recipient corporation that provides the health care coverage as approved in its application by the granting body.

(H) RECAPTURE

1. A recipient corporation shall fulfill its job creation, wage, healthcare and other benefit requirements for the project site within two years of the date of subsidy. Such recipient shall maintain its wage and benefit goals as long as the subsidy is in effect, or five years, whichever is longer.

2. The corporate parent of a recipient corporation must maintain at least 90 percent of its employment in the state as long as the development subsidy is in effect, or not less than five years, whichever is longer.

3. If the requirements under paragraphs (1) or (2) are not fulfilled, the granting body shall recapture the development subsidy from the recipient corporation as follows:

a. Upon a failure by the recipient corporation to create the required number of jobs, or to pay the required wages or benefits, the amount recaptured shall be based on the pro rata amount by which the unfulfilled jobs, wages or benefits bear to the total amount of the development subsidy.
b. Upon a failure of the corporate parent to maintain 90 percent of its employment in the State, the rate of recapture shall equal twice the percentage by which such employment is less than 90 percent.

4. The granting body shall provide notice and explanation to the recipient corporation of its intent to recapture the development subsidy and state the amount to be recaptured. The recipient corporation shall remit to the governing body such amount within 60 calendar days of the date of such notice.

5. If a recipient corporation defaults on a development subsidy in three consecutive calendar years, the granting body shall declare the subsidy null and void, and shall so notify the [Department of Economic Development] and the recipient corporation. The recipient corporation shall pay back to the granting body all remaining value of the development subsidy it has not previously repaid within 180 calendar days of the date of the notice of such default.

(I) PRIVATE ENFORCEMENT ACTION

If a granting body fails to enforce any provision of this section, any individual who paid personal income taxes to the state in the calendar year prior to the year in dispute, or any organization representing such taxpayers, shall be entitled to bring a civil action in state court to compel enforcement under this statute. The court shall award reasonable attorney's fees and costs to such prevailing taxpayer or organization.

(J) PUBLIC RECORD DISCLOSURE

All records required to be prepared or maintained under this section, including but not limited to applications, progress reports, recapture notices, and any other records or proceedings relating thereto, shall be subject to disclosure under the [state's open records act, cite appropriate section].

(K) NO REDUCTION IN WAGES

Nothing in this section shall be construed to require or authorize a recipient corporation to reduce wages established by any collective bargaining agreement or state or federal prevailing wage laws.

SECTION 4. SEVERABILITY

The provisions of this Act shall be severable, and if any phrase, clause, sentence, or provision is declared to be invalid or is preempted by federal law or regulation, the validity of the remainder of this Act shall not be affected.

SECTION 5. EFFECTIVE DATE

This act shall take effect on July 1, 2004.